GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-212
SENATE BILL 1366

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1997 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

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

TITLE OF ACT

Section 1.1. This act shall be known as the "Current Operations Appropriations and Capital Improvement Appropriations Act of 1998".

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 1998-99 fiscal year.

Current Operations - General Fund	1998-99
General Assembly	$ (500,000)
Judicial Department	9,651,068
Office of the Governor	
01. Office of the Governor	30,704
02. Office of State Budget	

and Management	54,703
03. Office of State Budget and Management	
Special Appropriations 5,200,000	
04. Office of State Planning	1,293,882
05. Housing Finance Agency	2,000,000
Office of the Lieutenant Governor	25,000
Department of Secretary of State	1,326,391
Department of State Auditor	1,583,258
Department of State Treasurer	1,461,525
Department of Public Instruction	139,465,944
Department of Justice	1,687,944
Department of Administration	700,643
Department of Agriculture and Consumer Services	5,305,296
Department of Labor	220,000
Department of Insurance	1,603,259
Department of Transportation	-
Department of Environment and Natural Resources	14,423,154
Office of Administrative Hearings	277,641
Rules Review Commission	-
Department of Health and Human Services	
01. Office of the Secretary	8,878,375
02. Division of Aging	8,546,044
03. Division of Child Development	41,468,546
04. Division of Services for the Deaf and Hard of Hearing	185,000
05. Division of Social Services	(17,771,926)
06. Division of Health Services	8,646,000

07.	Division of Medical Assistance	(46,433,341)
08.	Division of Services for the Blind	225,000
09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	13,655,001
10.	Division of Facility Services	750,000
11.	Division of Vocational Rehabilitation Services	1,700,000
12.	Division of Youth Services	1,800,000
Total Department of Health and Human Services		21,648,699
Department of Correction		(20,699,924)
Department of Commerce		
01.	Commerce	17,469,825
02.	Biotechnology Center	2,474,517
03.	MCNC	2,000,000
04.	Rural Economic Development Center	8,712,338
05.	State Aid to non-State Entities	12,566,400
06.	State Information Processing Services	5,871,630
Department of Revenue		12,028,589
Department of Cultural Resources		17,148,814
Department of Crime Control and Public Safety		526,802
Office of the State Controller		2,146,988
University of North Carolina – Board of Governors		
01.	General Administration	(38,720)
02.	University Institutional Programs	72,892,894
03.	Related Educational Programs	7,177,770
04.	University of North Carolina at Chapel Hill	
	a. Academic Affairs	(665,108)
	b. Health Affairs	(702,514)
	c. Area Health Education Centers	(39,753)
05.	North Carolina State University at Raleigh	
	a. Academic Affairs	(355,191)
	b. Agricultural Research Service	(42,451)
	c. Cooperative Extension Service	(33,652)
06.	University of North Carolina at Greensboro	(232,914)
07.	University of North Carolina at Charlotte	(111,070)

08.	University of North Carolina at Asheville	(20,866)
09.	University of North Carolina at Wilmington	(40,663)
10.	East Carolina University	
	a. Academic Affairs	(191,207)
	b. Division of Health Affairs	(42,480)
11.	North Carolina Agricultural and Technical State University	(51,643)
12.	Western Carolina University	(70,087)
13.	Appalachian State University	(151,650)
14.	The University of North Carolina at Pembroke	(19,141)
15.	Winston-Salem State University	(20,759)
16.	Elizabeth City State University	(58,252)
17.	Fayetteville State University	(24,605)
18.	North Carolina Central University	(3,525)
19.	North Carolina School of the Arts	(12,280)
20.	North Carolina School of Science and Mathematics.	(9,897)
UNC Hospitals at Chapel Hill		(36,783)
Total University of North Carolina - Board of Governors		77,095,453
Department of Community Colleges		47,851,373
State Board of Elections		1,480,399
Debt Service		(14,179,574)
Reserve for Juvenile Justice Initiatives		17,347,487
GRAND TOTAL CURRENT OPERATIONS –GENERAL FUND		$ 397,300,228

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Section 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 1999, according to the schedule that follows.Amounts set out in brackets are reductions from Highway Fund appropriations for the 1998-99 fiscal year.

Current Operations - Highway Fund		1998-99
Department of Transportation		
01.	Administration	$ 14,219,314
02.	Operations	-
03.	Construction and Maintenance	
	a. Construction	

	(01) Primary Construction	-
	(02) Secondary Construction	(2,050,000)
	(03) Urban Construction	-
	(04) Access and Public Service Roads	-
	(05) Discretionary Fund	-
	(06) Spot Safety Construction	-
b.	State Funds to Match Federal Highway Aid	(33,153,153)
c.	State Maintenance	23,351,652
d.	Ferry Operations	-
e.	Capital Improvements	4,070,348
f.	State Aid to Municipalities	(2,050,000)
g.	State Aid for Public Transportation and Railroads	13,400,000
h.	OSHA - State	-
04.	Governor's Highway Safety Program	-
05.	Division of Motor Vehicles	974,653
06.	Reserves and Transfers	(24,766,933)
GRAND TOTAL CURRENT OPERATIONS/HIGHWAY FUND		$ (6,004,119)

PART IV. HIGHWAY TRUST FUND

Section 4. Appropriations from the Highway Trust Fund are made for the fiscal year ending June 30, 1999, according to the schedule that follows.Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 1998-99 fiscal year.

Highway Trust Fund		1998-99
01.	Intrastate System	($ 20,194,558)
02.	Secondary Roads Construction	(393,452)
03.	Urban Loops	(8,165,838)
04.	State Aid - Municipalities	(2,118,880)
05.	Program Administration	143,380
GRAND TOTAL/HIGHWAY TRUST FUND		($ 30,729,348)

PART V. BLOCK GRANTS

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary, Howard, Berry, Holmes, Esposito, Creech, Crawford

DHHS BLOCK GRANT PROVISIONS

Section 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1999, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01.	Community Action Agencies	$ 11,573,346
02.	Limited Purpose Agencies	642,964
03.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	642,964
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 12,859,274

SOCIAL SERVICES BLOCK GRANT

01.	County departments of social services	$ 30,395,663
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	4,764,124
04.	Division of Services for the Blind	3,205,711
05.	Division of Youth Services	950,674
06.	Division of Facility Services	343,341
07.	Division of Aging - Home and Community Care Block Grant	5,769,190
08.	Child Care Subsidies	10,971,241
09.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
10.	State administration	1,954,237
11.	Child Medical Evaluation Program	238,321
12.	Adult day care services	2,255,301
13.	County departments of social services for child abuse/prevention and permanency planning	394,841

14.	Transfer to Preventive Health Block Services Grant for emergency medical services	213,128
15.	Transfer to Preventive Health Block Services Grant for AIDS education, counseling, and testing	66,939
16.	Department of Administration for the N.C. Commission of Indian Affairs In-Home Services Program for the elderly	203,198
17.	Division of Vocational Rehabilitation - Easter Seals Society	116,779
18.	UNC-CH CARES Program for training and consultation services	247,920
19.	Allocation to the Adolescent Pregnancy Prevention Program	239,261
20.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
21.	County departments of social services for child welfare improvements	2,211,687
22.	Transfer from TANF - Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for juvenile offenders	1,182,280
23.	Transfer from TANF - Enhanced Employee Assistance Program	1,000,000
24.	Division of Social Services - Child Caring Institutions	1,500,000
25.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	6,000,000
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 76,437,735

LOW-INCOME ENERGY BLOCK GRANT

01.	Energy Assistance Programs	$ 6,350,240
02.	Crisis Intervention	6,461,000
03.	Administration	1,443,572
04.	Department of Commerce - Weatherization Program	4,171,960
05.	Department of Administration - N.C. Commission of Indian Affairs	33,228

TOTAL LOW-INCOME ENERGY BLOCK GRANT $ 18,460,000

MENTAL HEALTH SERVICES BLOCK GRANT

01.	Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	$ 3,794,179
02.	Provision of community-based services in accordance with the Mental Health Study Commission's Child Mental Health Plan	1,819,931
03.	Administration	624,231

TOTAL MENTAL HEALTH SERVICES BLOCK GRANT $ 6,238,341

SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT

01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol, Drug Abuse Treatment Centers	$ 11,502,939
02.	Continuation of services for pregnant women and women with dependent children	5,065,766

03.	Continuation and expansion of services to IV drug abusers and others at risk for HIV diseases	4,843,456
04.	Provision of services in accordance with the Mental Health Study Commission's Child and Adolescent Alcohol and Other Drug Abuse Plan	5,964,093
05.	Services for former SSI recipients	1,123,757
06.	Juvenile Services - Family Focus	893,811
07.	Juvenile offender services and substance abuse pilot	300,000
08.	Administration	2,171,228

TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT $ 31,865,050

CHILD CARE AND DEVELOPMENT BLOCK GRANT

01.	Before and After School Child Care Programs and Early Childhood Development Programs	$ 845,598
02.	Quality improvement activities	752,281

TOTAL CHILD CARE AND DEVELOPMENT BLOCK GRANT $ 1,597,879

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

01.	Child care subsidies	$108,625,251
02.	Quality and availability initiatives	4,774,736
03.	Administrative expenses	5,968,420
04.	Transfer from TANF Block Grant for child care subsidies	66,669,460
05.	Transfer from TANF Block Grant for three child care centers at community colleges	500,000

TOTAL CHILD CARE AND DEVELOPMENT FUND

BLOCK GRANT		$ 86,537,867

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT

01.	Work First Cash Assistance:	
	Standard Counties	$158,500,000
	Electing Counties	43,787,170
02.	Work First County Block Grants	60,056,503
03.	Transfer to Child Care and Development Fund Block Grant for three child care centers at community colleges	500,000
04.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	66,669,460
05.	Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse treatment services and drug testing	2,000,000
06.	Allocation to the Division of Social Services for evaluation	1,000,000
07.	Allocation to the Division of Social Services for State and county staff development	500,000
08.	Reduction of out-of-wedlock births	1,600,000
09.	Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for screening, diagnostic, and counseling services related to substance abuse services for Work First participants	2,300,000
10.	Transfer to the Social Services Block Grant for substance abuse services for juveniles	1,182,280
11.	Transfer to the Social Services Block Grant to establish the Special Children Adoption Fund	300,000

12.	Employment Security Commission - First Stop Employment Assistance	1,100,000
13.	Transfer to Social Services Block Grant - Enhanced Employee Assistance Program	1,000,000
14.	Employment Security Commission - Expansion of First Stop Employment Assistance	19,000,000
15.	Planning for "Next Step" for TANF children and families	150,000
16.	Work First Substance Abuse Coordinator in Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	75,000
17.	Work First Job Retention and Follow-up Initiatives	1,777,529
18.	Work First Substance Abuse Model Programs	900,000
19.	Allocation to the Division of Women's and Children's Health for teen pregnancy prevention	2,000,000
20.	Transfer to Social Services Block Grant	11,353,956
21.	Allocation for Employment Security Commission for the Labor Market and Common Follow-Up Systems and the NC WORKS Study	500,000

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT $376,251,898

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mother/Healthy Children Block Grants to Local Health Departments	$ 9,838,074
02.	High Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and	

	Technical Assistance to Local Health Departments	1,722,869
03.	Services to Children With Special Health Care Needs	4,969,002
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 16,529,945

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Transfer from Social Services Block Grant - Emergency Medical Services	$ 213,128
02.	Hypertension and Statewide Health Promotion Programs	3,320,637
03.	Dental Health for Fluoridation of Water Supplies	213,308
04.	Rape Prevention and Rape Crisis Programs	190,134
05.	Rape Prevention and Rape Education	1,144,957
06.	Transfer from Social Services Block Grant - AIDS/HIV Education, Counseling, and Testing	66,939
07.	Office of Minority Health and Minority Health Council	177,442
08.	Administrative and Indirect Cost	207,210
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		$ 5,533,755

(b) Decreases in Federal Fund Availability -

Decreases in federal fund availability in all block grants except the TANF Block Grant, the Social Services Block Grant, the Maternal and Child Health Block Grant, and the Preventive Health Services Block Grant shall be reduced as follows: if federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of the federal block grants listed above shall be reduced by equal percentages to total the reduction in federal funds.

Decreases in federal fund availability in the Social Services Block Grant shall be allocated as follows: if funds are decreased by less than ten percent (10%) of the amounts appropriated in this section, then every program shall be reduced pro rata. If funds are decreased by ten percent (10%) or more of the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law,

then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF in any calculations of reductions to the Social Services Block Grant.

The Department of Health and Human Services shall cooperate with all other State and local agencies and public and private entities (i) that are impacted by the Social Services or the TANF Block Grant and (ii) that will be affected by future reductions in the Social Services Block Grant in the preparation of a State/local report, setting out concrete plans for dealing with future cuts in the Social Services Block Grant. The Department shall present this report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by April 1, 1999.

If the United States Congress reduces the amount of TANF funds below the amounts specified above after the effective date of this act, then the Department shall reduce every item in the TANF Block Grant section listed above pro rata. Any TANF funds appropriated by the United States Congress in addition to the funds specified in this act shall not be expended until appropriated by the General Assembly. Any TANF Block Grant fund changes shall be reported to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grant as follows: if federal funds are reduced less than ten percent (10%) below the amounts specified above after the effective date of this act, then every program in the Maternal and Child Health and in the Preventive Health Services Block Grants shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced by ten percent (10%) or more below the amounts specified above after the effective date of this act, then for the Maternal and Child Health and the Preventive Health Services Block Grants the Department of Health and Human Services shall allocate the decrease in funds after considering the effectiveness of the current level of services.

(c) Increases in Federal Fund Availability -

Any increases in the Community Services Block Grant and the Low-Income Energy Block Grant Funds Grant shall be expended as follows: any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided that the resultant increases are in accordance with federal block grant requirements, by allocating the additional funds for direct services only among the programs funded in this section.

Any block grant funds appropriated by the United States Congress for the Social Services Block Grant in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided the resultant increases are in accordance with federal block grant requirements, as follows:

(1) Fifty percent (50%) of the funds shall be allocated to the county departments of social services for mandatory services; and

(2) The remaining fifty percent (50%) shall be allocated for direct services only among the programs funded in this section.

The Child Care and Development Fund Block Grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

Any block grant funds appropriated by the Congress of the United States for the Maternal and Child Health Block Grant and the Preventive Health Services Block Grant in addition to the funds specified in this act shall be expended as follows:

(1) For the Maternal and Child Health Block Grant – Thirty percent (30%) of these additional funds shall be allocated to services for children with special health care needs and seventy percent (70%) shall be allocated to local health departments to assist in the reduction of infant mortality.

(2) For the Preventive Health Services Block Grants – These additional funds may be budgeted by the appropriate department, with the approval of the Office of State Budget and Management, after considering the effectiveness of the current level of services and the effectiveness of services to be funded by the increase, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

(d) Changes to the budgeted allocations to the Block Grants appropriated in this act due to decreases or increases in federal funds shall be reported to the Joint Legislative Commission on Governmental Operations, the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

(e) Limitations on Preventive Health Services Block Grant Funds - Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 1998-99 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

(f) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 1998-99 fiscal year for evaluation shall be used:

(1) To evaluate the Work First Program to assess the success of the current waiver program in effect until the General Assembly's approval of the new TANF State Plan in order to determine the impact on TANF recipients and their children. The Department shall contract with an independent consultant to develop an evaluation design that shall ensure that the evaluation includes an assessment of the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. The Department shall report the results of this evaluation study, together with any recommendations, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by March 1, 1999; and

(2) To contract with an independent consultant with expertise in evaluating large social programs to plan and design an evaluation of the Work First Program established by Part 2 of Article 2 of Chapter 108A of the General Statutes that will come into full effect upon the approval of the new TANF State Plan. The evaluation plan and design shall ensure that the evaluation includes an assessment of the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. The independent consultant shall report on the evaluation plan and design to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by April 1, 1999.

(g) The sum of one hundred fifty thousand dollars ($150,000) appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in this section in the TANF Block Grant for the 1998-99 fiscal year for "Next Step"shall be used to develop a substance abuse program plan that meets the specialized substance abuse services needs of TANF children and their families. This plan shall include a strong evaluation model/design to assess services' effectiveness in order to facilitate decision making regarding expansion of the program. The Department shall report on this plan, together with any recommendations, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources no later than April 1, 1999.

(h) The sum of one million seven hundred seventy-seven thousand five hundred twenty-nine dollars ($1,777,529) appropriated to the Department of Health and Human Services, Division of Social Services, in this section in the TANF BLock Grant

in the 1998-99 fiscal year for the Work First job retention and follow-up model programs shall be used to implement pilots and strategies that support TANF recipients in attaining and maintaining self-sufficiency through job retention, family support services, pre- and post-TANF follow-up. The pilots and strategies shall be developed with a strong evaluation component that looks at outcomes such as child/family well-being, family economic progress, and in consultation with local departments of social services, area mental health programs, the Employment Security Commission, workforce development boards, businesses, institutions of higher education, advocacy groups, and faith communities. The Department shall report on its progress in developing and implementing these pilots and strategies to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by April 1, 1999.

(i) The sum of two million dollars ($2,000,000) appropriated to the Department of Health and Human Services, Division of Women's and Children's Health, in this section in the TANF Block Grant for the 1998-99 fiscal year for teen pregnancy prevention shall be used to develop and implement local programs and initiatives aimed at reducing teen pregnancy. The programs developed with these funds shall be based on model programs that have been proven successful by extensive evaluation. The programs and initiatives shall include:

(1) Adolescent parenting programs;

(2) Adolescent pregnancy prevention programs;

(3) Local coalition programs combining adolescent parenting and adolescent pregnancy prevention components;

(4) Teen care coordination projects;

(5) A media campaign to raise awareness of teens and their parents.

(j) The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional child protective services, foster care, and adoption worker and supervisor positions created effective January 1, 1997, based upon a formula which takes into consideration the number of child protective services, foster care, and adoption cases, and child protective services, foster care, and adoption workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. No local match shall be required as a condition for receipt of these funds.

(k) The sum of nine hundred eleven thousand six hundred eighty-seven dollars ($911,687) appropriated in this section in (i) the Social Services Block Grant and (ii) in the TANF Block Grant transferred to the Social Services Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 1998-99 fiscal year shall be used to implement this subsection. Of the monies in the Special Children Adoption Fund, the Department shall award a minimum of four hundred thousand dollars ($400,000) to licensed private adoption agencies. The Department of Health and Human Services, Division of Social Services, in consultation

with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon successful placement for adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

The Department of Health and Human Services, Division of Social Services, shall evaluate the cost-effectiveness of county departments of social services and licensed public and private adoption agencies in placing children who are in the custody of the county departments of social services and report the results of this evaluation by May 1, 1999, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources.

(l) If funds appropriated through the Child Care and Development Fund, which includes the Child Care and Development Block Grant, for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with federal requirements of the grant, in order to use the federal funds fully.

(m) The sum of five hundred thousand dollars ($500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 1998-99 fiscal year and transferred to the Child Care and Development Fund Block Grant for transfer to the Department of Community Colleges shall be used to continue the three model early childhood education centers in three community colleges, one in the eastern part of the State, one in the western part of the State, and one in the Piedmont.

(n) The sum of six million dollars ($6,000,000) appropriated in the Social Services Block Grant to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services, for services for the Developmentally Disabled waiting list shall be used for the 1998-99 fiscal year to provide person-centered and family support services to developmentally disabled individuals who are not eligible for the Medicaid Community Alternative Program for Mentally Retarded/Developmentally Disabled persons and who are on the Department's waiting list for services.

(o) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant for the Division of Social Services for Child Caring Institutions for the 1998-99 fiscal year shall be allocated to the following private nonprofit child-caring agencies as State Private Child Caring Institution Grant-in-Aid:

(1) Agape House, Inc. (McDowell County)
(2) Ashe Youth Services, Inc. (Ashe County)
(3) Haven House, Inc. (Wake County)
(4) Phoenix Group Homes, Inc. (Burke County)
(5) Rutherford Youth Services (Rutherford County)

(6) Watauga - Avery Youth Services, Inc. (Watauga County)
(7) Wilkes County Group Homes, Inc. (Wilkes County)
(8) Ebenezer Gardens Christian Childrens Home (Wilkes County)
(9) Emergency Child Care Homes of Iredell County, Inc. (Iredell County)
(10) Family Center, Inc. (Mecklenburg County)
(11) LifeGains, Inc. (Burke County)
(12) Mountain Youth Resources, Inc. (Jackson County)
(13) The Presbyterian Home for Children, of Black Mountain, North Carolina (Buncombe County)
(14) Rainbow Center for Wilkes, Inc. (Wilkes County)
(15) Volunteer Families for Children of NC, Inc. (Wake County)
(16) Youth Focus, Inc. (Guilford County)
(17) Youth Opportunities, Incorporated (Forsyth County)
(18) Youth Unlimited, Inc. (Guilford County).

Funds allocated under this section shall be used to provide reimbursement for the State portion of the cost of care for the placement of certain children by the county department of social services who are not eligible for IV-E or other federal subsidies. Funds allocated under this subsection shall be combined with all other funds allocated to the State Private Child Caring Institution Grant-in-Aid Fund for payment to private child-caring institutions for the provision of care and services, and the 18 agencies named in this subsection shall be added to the list of agencies eligible to share proportionately in the child-caring institution grant-in-aid funds in accordance with rules adopted by the Social Services Commission pertaining to payments of grants-in-aid to private child-caring institutions. Any future request for child-caring institution grant-in-aid to the 18 private child-caring agencies designated in this subsection shall be submitted as part of the requests of other eligible private child-caring institutions according to the rules adopted by the Social Services Commission pertaining to payments of grants-in-aid to private child-caring institutions.

(p) The sum of one million dollars ($1,000,000) appropriated in this section in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall be used for the Enhanced Employee Assistance Program, to implement a grant program of financial incentives for private businesses employing former and current Work First recipients. These grants may supply funds to private employers who agree to hire former or current Work First recipients or their spouses at entry level positions and wages and to supply enhanced grant funds to private employers who agree to hire former or current Work First recipients or their spouses at a level higher than entry level positions, paying more than the minimum wage, including fringe benefits. The Department of Health and Human Services shall report on the use of these funds to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division by April 1, 1999.

(q) The funds appropriated in the TANF Block Grant and allocated to counties as Work First County Block Grants may be (i) used directly to fund Work First recipients' child care and (ii) transferred to the State's Child Care and Development Fund Block Grant for child care subsidies.

(r) It is the intent of the General Assembly to promote State and local activities that facilitate the success of the Work First Program and assist Work First recipients and families in attaining self-sufficiency. It is the policy of the General Assembly that the Department of Health and Human Services allow maximum flexibility in the Work First Program while ensuring that counties comply with federal and State law, regulations, and rules and meet the overall goals of the Work First Program, including federal work participation rates. The General Assembly strongly encourages counties to allocate the flexible Work First County Block Grant funds made available to them through the TANF Block Grant appropriated in this section for child care services needed to ensure continued success of welfare reform.

(s) The sum of nine hundred thousand dollars ($900,000) appropriated in the TANF Block Grant to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in this section for services for Work First recipients shall be allocated to TROSA Therapeutic Community, FIRST Therapeutic Community, when these programs become licensed by the State, and other related licensed substance abuse services for start-up and support costs for Work First recipients and their families.

(t) Notwithstanding the amounts specified in this section for the components of the Temporary Assistance for Needy Families (TANF) Block Grant, the Department may expend TANF Block Grant funds during the first quarter of the 1998-99 fiscal year for the same purposes for which those funds were expended during the last quarter of the fiscal year ending June 30, 1998.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

NER BLOCK GRANT FUNDS

Section 5.1. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1999, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 980,000
02.	Urgent Needs and Contingency	1,277,400
03.	Community Empowerment	2,767,700
04.	Economic Development	8,516,000
05.	Community Revitalization	28,528,600

06.	State Technical Assistance	440,000
07.	Housing Development	1,490,300
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 1999 Program Year		$ 44,000,000

(b) Decreases in Federal Fund Availability

Decreases in federal fund availability for the Community Development Block Grants – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

(c) Increases in Federal Fund Availability for Community Development Block Grant

Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: – Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

(d) Limitations on Community Development Block Grant Funds – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to nine hundred eighty thousand dollars ($980,000) may be used for State administration; up to one million two hundred seventy-seven thousand four hundred dollars ($1,277,400) may be used for Urgent Needs and Contingency; up to two million seven hundred sixty-seven thousand seven hundred dollars ($2,767,700) may be used for Community Empowerment; up to eight million five hundred sixteen thousand dollars ($8,516,000) may be used for Economic Development; not less than twenty-eight million five hundred twenty-eight thousand six hundred dollars ($28,528,600) shall be used for Community Revitalization; up to four hundred forty thousand dollars ($440,000) may be used for State Technical Assistance; up to one million four hundred ninety thousand three hundred dollars ($1,490,300) may be used for Housing Development. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

(e) Scattered Sites Program Improvements – The Department shall implement improvements to the system for distributing Scattered Sites awards in the Community Revitalization category to maximize funding opportunities. The Department shall make changes in the funding cycle for Scattered Sites projects, shall reduce the cap on grants for these projects to three hundred fifty thousand dollars ($350,000), and shall increase funding allocations by up to fifteen percent (15%) to address outhouses and other critical on-site water/wastewater needs. The Department may adopt temporary rules to implement these changes.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

CONTINUING BUDGET ACT/CONFORMING CHANGE

Section 5.2. Section 2 of S.L. 1998-23 is repealed.

PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY STATEMENTS

GENERAL FUND AVAILABILITY STATEMENTS

Section 6. The General Fund and availability used in developing the 1998-99 budget is shown below:

			($ Millions)
01.	Composition of the 1998-99 beginning availability:		
	a.	Revenue collections unaddressed in 1997-98	$ 121.5
	b.	Revenue collections in 1997-98 in excess of authorized estimates	533.5
	c.	Unexpended appropriations during 1997-98 (reversions)	94.7
	d.	Adjustment for Emergency Appro./Yr. 2000 Conversion	(20.5)
		Beginning Credit Balance	729.2
02.	Earmarked Transfers from Credit Balance:		
	a.	Transfer to Savings Reserve	(21.6)
	b.	Transfer for Reserve for Repairs & Renovations	(145.0)
	c.	Transfer to Clean Water Management Reserve	(47.4)
	d.	Transfer to Reserve for Bailey/Emory/Patton Cases Refunds	(400.0)
		Total Transfers	(614.0)
03.	Beginning Unrestricted Fund Balance		115.2
04.	Revenues Based on Existing Tax Structure:		
	a.	Tax Revenues Originally Projected	11,547.7
		Additional Projected Tax Revenue	256.3
		Total Tax Revenues	11,804.0
	b.	Tax Changes:	
		(01) Repeal Food Tax Effective May 1, 1999	(18.4)
		(02) Repeal Income Tax on Retired Gov't. Emp. (Bailey Case)	(128.6)
		(03) Continue Earmarked Refund for Federal Retirees	(35.5)
		(04) No Tax on Gas Cities (S.L. 1998-22)	(1.3)
		(05) Economic Opportunities Act of 1998 (S.L. 1998-55)	(2.2)
		(06) Simplify Privilege License Tax (S.L. 1998-95)	1.5

(07)	Expand Amusement Tax Exemption (S.L. 1998-96)	(0.03)
(08)	Revenue Laws Technical Changes (S.L. 1998-98)	-
(09)	Make Tax Credits Constitutional (S.L. 1998-100)	(0.6)
(10)	Repeal Wholesale License (S.L. 1998-121)	(1.3)
(11)	Increase Sales Tax Filing Threshold (S.L. 1998-121)	(-)
(12)	Poultry Composting Tax Credit (S.L. 1998-134)	(0.03)
(13)	Limit Nonresident Withholding (S.L. 1998-162)	(7.0)
(14)	IRC Update Loss Carryforward (S.L. 1998-171)	(7.0)
(15)	Extend Submerged Lands Claims (S.L. 1998-179)	-
(16)	Non-Itemizer Charity Credit (S.L. 1998-183)	-
(17)	No Tax on Pay Phones (HB 1126)	-
(18)	Repeal Inheritance Tax	
(19)	School Sales Tax Refunds	
(20)	Corporate Dividend Technical Changes	
(21)	Long-Term Care Insurance (HB 74)	-
(22)	Revenue Penalties Uniform	-
(23)	Qualified Business Credit Sunset Extension	
(24)	Modify Qualified Credit for Movie Industry	
(25)	Conservation Easement Tax Credit (HB 1491)	
(26)	Modify Controlled Substance Tax (SB 1554)	.7
	Total Tax Changes	(199.76)

c.	Non-Tax Revenues	472.4
	Additional Non-Tax Revenue:	
	Treasurer's Banking Division	1.1
	Secretary of State Fees	.3
	DHHS-Certificate of Need Fees	1.5
	Fed. Retiree Refund Program-Administration	0.7
	Intangibles Tax Reserve Balance	7.4
	Fed. Retiree Refund Reserve Balance	9.7
	Transfer from Insurance Regulatory Fund	2.1
	Disaster Relief Reserve Reversion	1.0
	Total Non-Tax Revenues	496.2

d.	Disproportionate Share Receipts	85.0
	1997-98 Reserved DSH Receipts	35.4
	Total DSH Receipts	120.4
e.	Highway Trust Fund Transfer	170.0
f.	Highway Fund Transfer Sales Tax	13.4

TOTAL GENERAL FUND AVAILABILITY	$ 12,519.44
TOTAL 1998-99 APPROPRIATIONS BY 1997 AND 1998 EXTRA SESSION	$ 11,547.6
Appropriations by 1998 Session for 1998-99	
SB 879 Salary Increases/Retirement (S.L. 1998-0153)	342.10
SB 1262-Redistricting Plan Legal Fees (S.L. 1998-0164)	0.60
HB 900 Federal Match Required (S.L. 1998-0166)	57.10
SB 1366, Current Operations, Section 2	397.30
SB 1366, Capital Improvements, Section 29	174.50
Subtotal Appropriations by 1998 Session for 1998-99	971.60
TOTAL 1998-99 APPROPRIATIONS	12,519.20

HIGHWAY FUND AVAILABILITY

Section 6.1. The Highway Fund appropriations availability used in developing modifications to the 1998-99 Highway Fund budget contained in this act is shown below:

	1998-99
Beginning Credit Balance	$ 5,159,370
Estimated Revenue	1,224,263
TOTAL HIGHWAY FUND AVAILABILITY	$ 6,383,633

PART VII. GENERAL PROVISIONS

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Esposito, Creech, Crawford

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

Section 7. Section 7.2(a) of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated in this act to the Contingency and Emergency Fund, the sum of nine hundred thousand dollars ($900,000) for the 1997-98 fiscal year and the sum of nine hundred thousand dollars ($900,000) for the 1998-99 fiscal year shall be designated for emergency allocations, which are ~~for the purposes outlined in G.S. 143-23(a1)(3), (4), and (5).~~ for expenditures:

(1) Required by a court, Industrial Commission, or administrative hearing officer's order or award or to match unanticipated federal funds;
(2) Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or
(3) Required to call out the National Guard.

Two hundred twenty-five thousand dollars ($225,000) for the 1997-98 fiscal year and two hundred twenty-five thousand dollars ($225,000) for the 1998-99 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund."

Requested by: Representatives Holmes, Esposito, Creech, Crawford

NATURAL DISASTER ASSISTANCE

Section 7.1. Of the unencumbered funds remaining in the Reserve for Disaster Relief for the 1997-98 fiscal year, the sum of one million dollars ($1,000,000) shall revert to the General Fund on July 1, 1998. The balance shall remain available for disaster relief including natural disasters caused by flooding, wind or tornado damage, rockslides, blizzards, drought, hurricanes, and forest fires. The balance may also be used to match federal funds or any other funds that may be made available for disaster relief.

Requested by: Representative Davis

FEDERAL FUNDS CLEARLY SHOWN

Section 7.2. G.S. 143-16.1(a) reads as rewritten:

"(a) All federal funds shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by law. Proposed budgets recommended to the General Assembly by the Governor and Advisory Budget Commission shall include information concerning the federal expenditures in State agencies, departments and institutions in the same manner as State funds. Each budgetary category shall show the total received and anticipated State and federal expenditures, along with a description of the purpose for which the federal funds will be spent at the program level. All expenditures for the prior fiscal year and all expenditures anticipated in the proposed budget shall be reported by objects of expenditure by purpose and shall be identified by each federal grant. For the purpose of this section, 'federal funds' are any financial assistance made to a State agency by the United States government, whether a loan, grant, subsidy, augmentation, reimbursement, or any other form. The Director of the Budget may adopt rules and regulations establishing uniform planning, budgeting and fiscal procedures, not inconsistent with federal law, that ensure that all federal funds shall be expended in a standardized manner. The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

PART VIII. RESERVES

Requested by: Senators Cooper, Plyler, Perdue, Odom, Lucas, Representatives Neely, Holmes, Esposito, Creech, Crawford

JUVENILE JUSTICE RESERVE

Section 8.1. (a) There is established in the Office of State Budget and Management a reserve fund entitled the "Juvenile Justice Reserve Fund" to provide funds to implement the recommendations of the Governor's Commission on Juvenile Crime and Justice, which are set forth in ratified Senate Bill 1260 of the 1997 General Assembly and entitled "Juvenile Justice Reform Act", if enacted (hereinafter in this section referred to as "Senate Bill 1260").The Director of the Budget shall allocate the funds appropriated in this act for the Juvenile Justice Reserve Fund in the amount of seventeen million three hundred forty-seven thousand four hundred eighty-seven dollars ($17,347,487) as follows:

(1) $1,000,000 nonrecurring to the Department of Health and Human Services, Division of Youth Services, for planning and design of 208 new training school beds and related support facilities.

(2) $32,980 nonrecurring and $484,444 recurring to the Department of Health and Human Services, Division of Youth Services, to make permanent 32 beds at Umstead Detention Center, effective January 1, 1999.

(3) $4,800,000 nonrecurring to the Department of Health and Human Services, Division of Youth Services, for two 24-bed detention units. Consideration shall be given to the renovation of existing GPAC units for either or both units. Any funds remaining after allocation of funds for construction of new units or renovation of any GPAC units shall be used for planning and design of an additional 24-bed detention unit, for which the General Assembly intends to appropriate construction funds. Site selection of detention beds shall be based on the need for additional beds in the particular area of the State.

(4) $700,000 nonrecurring to the Department of Health and Human Services, Division of Youth Services, to construct a new modular Eckerd Wilderness Camp.

(5) $517,000 recurring to the Department of Health and Human Services, Division of Youth Services, to contract for construction or lease of and the operation of up to four new eight-bed multi-purpose juvenile homes, effective April 1, 1999.

(6) $3,688,548 nonrecurring and $1,823,442 recurring to the Department of Health and Human Services, Division of Youth Services, for local grant funds. In awarding grants from these funds, priority shall be given to local substance abuse-related services, local home-based family services programs, and juvenile day reporting centers, referenced in Section 22 of Senate Bill 1260.

(7) $100,000 nonrecurring to the Department of Health and Human Services, Division of Youth Services, to study the At-Risk Assessment System established in Section 26 of Senate Bill 1260.

(8) $50,000 nonrecurring to the Department of Health and Human Services, Division of Youth Services, for the Substance Abuse Prevention Plan established in G.S. 147-33.47.

(9) $563,298 nonrecurring and $930,427 recurring to the Judicial Department, Juvenile Services Division, for 100 court counselors, six court counselor supervisors, and 20 juvenile court secretaries. Positions for 50 counselors, three supervisors, and 10 secretary positions shall become effective April 1, 1999. The remaining positions shall become effective June 1, 1999.

(10) $100,000 recurring to the Judicial Department, Juvenile Services Division, to provide funds to lease field monitoring units for electronic house arrest.

(11) $33,000 nonrecurring and $63,313 recurring to the Judicial Department, Juvenile Services Division, for contractual services for three sites for the Guard Response Alternate Sentencing Program established in Section 24 of Senate Bill 1260. Services shall be contracted on or after April 1, 1999.

(12) $8,626 nonrecurring and $21,206 recurring to the Judicial Department, Juvenile Services Division, for two court counselors for the On Track Program established in Section 23 of Senate Bill 1260. The positions shall become effective on or after April 1, 1999.

(13) $600,000 nonrecurring and $120,000 recurring to the Department of Justice for the juvenile justice information system established in Section 21 of Senate Bill 1260. The funds shall be used for one project coordinator and two business system analysts and for contractual funds to develop the juvenile justice information system plan and the scope and design of the system. The positions shall become effective December 1, 1998.

(14) $119,512 nonrecurring and $73,463 recurring to the Judicial Department, North Carolina Sentencing and Policy Advisory Commission, to provide contractual services and two research analyst positions to support juvenile data collection needs and update the juvenile population simulation model. The positions shall become effective December 1, 1998.

(15) $318,228 nonrecurring to the Judicial Department for three family court pilots beginning March 1, 1999, and expiring December 1, 2000, pursuant to Section 25 of Senate Bill 1260.

(16) $700,000 nonrecurring to the Department of Public Instruction for the Communities in Schools Program, a public/private partnership working with at-risk students.

(17) $500,000 nonrecurring to the Board of Governors of The University of North Carolina for the Center for the Prevention of School Violence for operating support of this research, training, and information center at North Carolina State University.

(b) Effective January 1, 1999, the Director of the Budget shall allocate funds authorized in subdivisions (1) through (12) of subsection (a) of this section to the Office of Juvenile Justice, established pursuant to G.S. 147-33.30, rather than the agencies specified in those subdivisions. Any funds allocated from the Juvenile Justice Reserve Fund to the Department of Health and Human Services or the Judicial Department prior to January 1, 1999, shall be transferred to the Office of Juvenile Justice pursuant to G.S. 147-33.31 and G.S. 147-33.32.

(c) Prior to January 1, 1999, the Department of Health and Human Services may initiate the grant application and review process for local grants, but shall not award grants from funds appropriated to the Juvenile Justice Reserve Fund. The Juvenile Crime Prevention Councils established pursuant to G.S. 147-33.49 may work in consultation with the local youth services advisory committees in existence on January 1, 1999, in receiving grant funds during the 1998-99 fiscal year and in allocating those funds to local programs. Funds appropriated for local grants in this section to the Juvenile Justice Reserve Fund shall not revert.

(d) On or before May 1, 1999, the Office of Juvenile Justice shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded from the Juvenile Justice Reserve Fund. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a description of the local services, programs, or projects that will receive funds. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

(e) Funds appropriated in this act to the Juvenile Justice Reserve Fund for the 1998-99 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission of the Department of Crime Control and Public Safety shall consult with the Office of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and Management and the Governor's Crime Commission shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 1998-99 fiscal year, the amount of funds anticipated for the 1999-2000 fiscal year, and the allocation of funds by program and purpose.

(f) The Department of Health and Human Services or the Office of Juvenile Justice, whichever is selecting sites for training school beds and detention beds, shall report to the Joint Legislative Commission on Governmental Operations prior to finalizing site selection for training school beds and detention beds authorized pursuant to this section.

(g) The Office of the Governor, in consultation with the Administrative Office of the Courts and the Division of Youth Services and the Division of Mental

Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services, shall conduct a study of the need for one or more residential treatment programs for juveniles adjudicated delinquent for an offense containing an element of inappropriate sexual conduct, including whether or not the State needs a separate facility to administer the program or programs. The Office of the Governor shall report to the Appropriations Committees of the Senate and House of Representatives on its findings and recommendations, including any legislative proposals, on or before April 1, 1999.

(h) No State or federal funds, in addition to the funds appropriated in this act, shall be expended or used for the juvenile justice information system until the Criminal Justice Information Network Governing Board submits the juvenile justice information plan developed pursuant to Section 21 of Senate Bill 1260 to the Appropriations Committees of the Senate and House of Representatives.

PART IX. PUBLIC SCHOOLS

Requested by: Senators Plyler, Perdue, Odom, Lee, Winner, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

ALLOCATIONS FOR PUBLIC SCHOOLS

Section 9. (a) There is allocated from unexpended 1997-98 General Fund appropriations the sum of fifty-five million twenty-seven thousand six hundred eighty dollars ($55,027,680) which shall not revert and shall be used as follows:

(1) $17,118,003 to fulfill the State's obligations to public school employees who qualified for performance bonuses for the 1997-98 school year under the ABC's of Public Education Program;

(2) $9,010,274 to fulfill the State's obligations to public school teachers who qualified for longevity payments for the 1997-98 school year;

(3) $24,199,403 to permit the State Board of Education to order school buses needed for the 1998-99 school year; and

(4) $4,700,000 for the State School Technology Fund to provide additional school technology funds prior to the beginning of the 1998-99 school year.

(b) Section 5 of S.L. 1998-23 is repealed.

Requested by: Senators Winner, Lee, Plyler, Perdue, Odom, Representatives Arnold, Preston, Oldham

CERTIFIED SCHOOL NURSES/SALARY

Section 9.1. Effective for the 1998-99 school year, certified school nurses who are employed in the public schools as nurses shall be paid on the "G" salary schedule.

Requested by: Senators Winner, Lee, Perdue, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM

Section 9.2. (a) Section 8.36 of S.L. 1997-443 reads as rewritten:

"Section 8.36. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education ~~may use up to seventy-two million four hundred thousand dollars ($72,400,000) for the 1997-98 fiscal year to~~ shall provide incentive funding for schools that meet or exceed the projected levels of improvement in student performance, in accordance with the ABC's of Public Education Program. In accordance with State Board of Education policy, incentive awards in schools that achieve higher than expected improvements may be up to: (i) one thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and (ii) five hundred dollars ($500.00) for each teacher assistant. In accordance with State Board of Education policy, incentive awards in schools that meet the expected improvements may be up to: (i) seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and (ii) three hundred seventy-five dollars ($375.00) for each teacher assistant.

(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools."

(b) Section 6 of S.L. 1998-23 is repealed.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Oldham

EXTRA PAY FOR MENTOR TEACHERS

Section 9.3. (a) Funds appropriated to State Aid to Local School Administrative Units, shall be used to provide qualified and well-trained mentors for newly certified teachers, teachers who had mentors during the 1997-98 school year, and entry-level instructional support personnel who have not previously been teachers. These funds shall be used to compensate each mentor at the rate of (i) one hundred dollars ($100.00) per month for a maximum of 10 months for serving as a mentor for a first or second year teacher during the school year, and (ii) one hundred dollars ($100.00) for serving as a mentor for a first-year teacher for one day prior to the beginning of the school year.

(b) The State Board of Education may use funds for the mentor program to evaluate the program. The State Board shall report the results of its evaluation to the Joint Legislative Education Oversight Committee prior to March 5, 2000.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Oldham

AID TO LOW-PERFORMING AND AT-RISK SCHOOLS

Section 9.4. (a) Funds appropriated for the 1998-99 fiscal year for aid to low-performing and at-risk schools shall be used to provide services to:

(1) Elementary schools and middle schools at which forty-eight percent (48%) or more of the students were below grade level during the 1996-97 and 1997-98 school years or during the 1997-98 school year;

(2) The five percent (5%) of high schools in the State that have the lowest composite scores on the ABC's accountability measures; and

(3) Those high schools identified by the State Board of Education as low performing through ABCs Program.

(b) Funds for salary-related items in the amounts of two million six hundred sixty thousand six hundred ten dollars ($2,660,610) in recurring funds and four million nine hundred five thousand four hundred five dollars ($4,905,405) in nonrecurring funds shall be used as follows:

(1) Up to ten percent (10%) of the nonrecurring funds on a statewide basis may be used for salary supplements for teachers assigned to local assessment teams; and

(2) The remainder of the funds shall be used for extra pay for extra duties for teachers for such activities as Saturday academies and after-school tutoring, for professional development, and for additional days of work outside of the 220 paid days in the school calendar. These days should be cooperatively planned by the principal and the faculty.

The Director of the Budget is encouraged to include these funds in the continuation budget for the 1999-2001 fiscal biennium.

(c) Funds for nonsalary items in the amount of two million dollars ($2,000,000) shall be used only for staff development costs and for textbooks, instructional supplies, materials, and equipment.

(d) The principal of a low-performing or at-risk school, in consultation with the faculty and the site-based management team, shall develop an initial plan for expending funds allocated in this section to improve the school. The plan shall be consistent with the plan adopted by the local board of education pursuant to G.S. 115C-105.37. The plan shall include whole-staff training. The plan shall be submitted to the local superintendent and approved by the local board prior to submission to the State Board of Education. The plan shall be revised annually.

The plan shall be reviewed and accepted or rejected by the State Board of Education within 15 days after receipt of the plan. The State Board may delegate to the State Superintendent the responsibility for accepting or rejecting the plan.

The local board shall receive the money for each school for which a plan is approved. The local board shall receive for each school for which a plan is approved a minimum of ten thousand dollars ($10,000) from the funds in subsection (c) of this section; the remainder of these funds shall be allocated on the basis of average daily membership. The State Board of Education shall allocate funds in subsection (b) of this section on the basis of additional days for State-paid teachers at the school.

(e) The State Board of Education is encouraged to use federal funds such as Goals 2000 and Comprehensive School Reform Demonstration Grants to assist low-performing and at-risk schools.

(f) Funds allocated in subsections (b) and (c) of this section shall revert on August 31, 1999.

(g) The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to January 1, 1999, on the plans and on the use of funds for Aid to Low-Performing and At-Risk Schools.

Requested by: Senators Winner, Lee, Perdue, Representatives Arnold, Grady, Preston

ABC'S HIGH SCHOOL ACCOUNTABILITY MODEL

Section 9.5. The State Board of Education shall continue its efforts to improve the standards for determining whether high schools meet or exceed their projected levels of improvement in student performance in accordance with the ABC's of Public Education Program. The General Assembly urges the State Board to consider including in the standards (i) a measurement of improvement in individual students' performance, (ii) dropout rates, and (iii) a measurement of student enrollment and achievement in courses required for graduation, advanced placement courses, or other upper level courses.

Requested by: Senators Winner, Lee, Perdue, Representatives Arnold, Grady, Preston

PRINCIPAL SALARY STUDIES

Section 9.7. Section 8.43(d) of S.L. 1997-443 reads as rewritten:

"(d) The State Board of Education may use up to fifty thousand dollars ($50,000) of funds appropriated by this act to State Aid to Local School Administrative Units for the ~~1997-98~~ 1998-99 fiscal year to study principals' salaries ~~including the~~ including:

(1) The relationship of principals' salaries to the salaries of teachers and other certified school ~~personnel.~~ personnel;

(2) Whether the current relationship between the teacher and principal salary schedules should be increased to a three percent (3%) differential;

(3) Whether assistant principals should be given additional steps for years of experience; and

(4) The appropriate relationship of principal's salary to size of school.

The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to ~~December 15, 1998.~~ January 1, 1999."

Requested by: Senators Cooper, Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

COMMUNITIES IN SCHOOLS FUNDS/DO NOT REVERT

Section 9.8. Section 13(b) of S.L. 1998-23 reads as rewritten:

"(b) This section becomes effective June 30, ~~1998, and expires when the Current Operations Appropriations and Capital Improvement Appropriations Act of 1998 becomes a law.~~ 1998."

Requested by: Senators Winner, Lee, Perdue, Dalton, Purcell, Representatives Arnold, Preston, Oldham

SCHOOL ACTIVITY BUS USAGE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES

Section 9.9. G.S. 66-58(c) is amended by adding a new subdivision to read:

"(9b) The use of a public school activity bus by a nonprofit corporation or a unit of local government to provide transportation services for school-

aged and preschool-aged children, their caretakers, and their instructors to or from activities being held on the property of a nonprofit corporation or a unit of local government. The local board of education that owns the bus shall ensure that the person driving the bus is licensed to operate the bus and that the lessee has adequate liability insurance to cover the use and operation of the leased bus."

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Oldham

SCHOOL BOARD QUICK TAKE

Section 9.10. G.S. 40A-42(a) reads as rewritten:

"(a) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10) or (12), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

LITIGATION RESERVE

Section 9.11. (a) Section 14 of S.L. 1998-23 reads as rewritten:

"Section 14. (a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 1998, shall not revert on July 1, 1998, but shall remain available for expenditure until ~~the Current Operations Appropriations and Capital Improvement Appropriations Act of 1998 becomes a law.~~ June 30, 1999.

(b) Subsection (a) of this section becomes effective June 30, ~~1998, and expires when the Current Operations Appropriations and Capital Improvement Appropriations Act of 1998 becomes a law.~~ 1998."

(b) The State Board of Education may expend up to five hundred thousand dollars ($500,000) for the 1998-99 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

EXCEPTIONAL CHILDREN FUNDS

Section 9.12. (a) The funds appropriated for exceptional children in this act shall be allocated as follows:

(1) Each local school administrative unit shall receive for academically gifted children the sum of seven hundred forty-six dollars and ninety-five cents ($746.95) per child for four percent (4%) of the 1998-99 allocated average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 49,828 for the 1998-99 school year.

(2) Each local school administrative unit shall receive for exceptional children other than academically gifted children the sum of two thousand two hundred forty-eight dollars and thirty-nine cents ($2,248.39) per child for the lesser of (i) all children who are identified as exceptional children other than academically gifted children or (ii) twelve and five-tenths percent (12.5%) of the 1998-99 allocated average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 147,334 for the 1998-99 school year.

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

(b) To the extent that funds appropriated for exceptional children other than academically gifted children are adequate to do so, the State Board of Education may allocate the excess of these funds to provide services for severely disabled children in school units and in group homes.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Grady, Oldham

ALTERNATIVE SCHOOLS/AT-RISK STUDENTS

Section 9.13. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds in the Alternative Schools/At-Risk Student allotment for the 1998-99 fiscal year to:

(1) Implement G.S. 115C-12(24), and

(2) Conduct studies of alternative schools and access to alternative schools, as required by Senate Bill 1260 as enacted by the 1998 Regular Session of the 1997 General Assembly.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Daughtry, Arnold, Preston, Oldham

CHARTER SCHOOLS

Section 9.14. If the projected average daily membership of schools other than charter schools in a county school administrative unit with 3,000 or fewer students is decreased by more than four percent (4%) due to projected shifts of enrollment to charter schools, the State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for the 1998-99 fiscal year to reduce the loss of

funds to the schools other than charter schools in the unit to a maximum of four percent (4%). This section applies to the 1998-99 fiscal year only.

Section 9.14A. (a) G.S. 115C-238.29F(e)(4) reads as rewritten:

"(4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan. The State Board of Education provides funds to charter schools, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school ~~employees and are "teachers"for purposes of membership in the North Carolina Teachers' and State Employees' Retirement System and State Employees' Comprehensive Major Medical Plan.~~ employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are 'teachers' for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Part require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System."

(b) Article 1 of Chapter 135 of the General Statutes is amended by adding the following new section:

"**§ 135-5.3. Optional participation for charter schools operated by private nonprofit corporations.**

(a) The board of directors of each charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing, shall be made no later than 30 days after this section becomes law, and shall be filed with the Retirement System and with the State Board of Education. For each charter school employee who is employed on or before the date the board makes the election to participate, membership in the System is effective as of the date the board makes the election to participate. For each charter school employee who is employed after the date the board makes the election, membership in the System is effective as of the date of that employee's entry into eligible service. This subsection applies only to charter schools that received State Board of Education approval under G.S. 115C-238.29D in 1997 or 1998.

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the

Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education approval under G.S. 115C-238.29D after 1998.

(c) A board's election to become a participating employer in the Retirement System under this section is irrevocable and shall require all eligible employees of the charter school to participate.

(d) No retirement benefit, death benefit, or other benefit payable under the Retirement System shall be paid by the State of North Carolina or the Board of Trustees of the Teachers' and State Employees' Retirement System on account of employment with a charter school with respect to any employee, or with respect to any beneficiary of an employee, of a charter school whose board of directors does not elect to become a participating employer in the Retirement System under this section.

(e) The board of directors of each charter school shall notify each of its employees as to whether the board elected to become a participating employer in the Retirement System under this section. This notification shall be in writing and shall be provided within 30 days of the board's election or at the time an initial offer for employment is made, whichever occurs last. If the board did not elect to join the Retirement System, the notice shall include a statement that the employee shall have no legal recourse against the board or the State for any possible credit or reimbursement under the Retirement System. The employee shall provide written acknowledgment of the employee's receipt of the notification under this subsection."

(c) G.S. 135-4 is amended by adding the following new subsection to read:

"(cc) Credit for Employment in Charter School Operated by a Private Nonprofit Corporation. – Any member may purchase creditable service for any employment as an employee of a charter school operated by a private nonprofit corporation whose board of directors did not elect to participate in the Retirement System under G.S. 135-5.3 upon completion of five years of membership service after that charter school employment by making a lump-sum payment into the Annuity Savings Fund. The payment by the member shall be equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, taking into account the additional retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire with an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the actuary plus an administrative expense fee to be determined by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms 'full cost', 'full liability', and 'full actuarial cost' include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance."

(d) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. – A North Carolina School System; Community College; State Department, Agency or Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes ~~whose employees are deemed to be public employees and members of a State-Supported Retirement System.~~ whose board of directors elects to become a participating employer in the Plan under G.S. 135-40.3A."

(e) Part 3 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new section:

"**§ 135-40.3A. Optional participation for charter schools operated by private nonprofit corporations.**

(a) The board of directors of each charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing, shall be made no later than 30 days after this section becomes law, and shall be filed with the Executive Administrator and Board of Trustees and with the State Board of Education. For each charter school employee who is employed on or before the date the board makes the election, membership in the Plan is effective as of the date the board makes the election. For each charter school employee who is employed after the date the board makes the election, membership in the Plan is effective as of the date of that employee's entry into eligible service.This subsection applies only to charter schools that received State Board of Education approval under G.S. 115C-238.29D in 1997 or 1998.

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Executive Administrator, the Board of Trustees, and the State Board of Education. This election is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education approval under G.S. 115C-238.29D after 1998.

(c) A board's election to become a participating employer in the Plan under this section is irrevocable and shall require all eligible employees of the charter school to participate.

(d) If a charter school's board of directors does not elect to become a participating employer in the Plan under this section, that school's employees and the dependents of those employees are not eligible for any benefits under the Plan on account of employment with a charter school.

(e) The board of directors of each charter school shall notify each of its employees as to whether the board elected to become a participating employer in the Plan under this section. This notification shall be in writing and shall be provided within 30 days of the board's election or at the time an initial offer for employment is

made, whichever occurs last. If the board did not elect to become a participating employer in the Plan, the notice shall include a statement that the employee shall have no legal recourse against the board or the State for any possible benefit under the Plan. The employee shall provide written acknowledgment of the employee's receipt of the notification under this subsection."

(f) This section is effective when it becomes law.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

TESTING

Section 9.15. (a) Funds appropriated to the State Board of Education in the amount of two million dollars ($2,000,000) for the 1998-99 fiscal year shall be used to:

(1) Cover cost increases in end-of-grade, end-of-course, and other tests previously authorized by the SBE and the General Assembly, that are caused by increases in average daily membership;

(2) Reestablish high school end-of-course tests previously established by the State Board of Education in accordance with Section 8.27 of S.L. 1997-443;

(3) Develop new end-of-course tests required for high school, in accordance with Section 8.27 of S.L. 1997-443; and

(4) Begin the development of alternative assessments for children with special needs.

The General Assembly encourages the Director of the Budget to include these funds in the continuation budget request for the 1999-2000 fiscal year and subsequent fiscal years.

(b) G.S. 115C-174.11(c)(1) reads as rewritten:

"(1) The State Board of Education shall adopt a system of annual testing for grades three through 12. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies designated by the State Board for grades nine through 12. Notwithstanding subsection (a) of this section, the State Board shall develop and implement a study allowing selected local school administrative units that volunteer to administer a standardized test in May, 12 months prior to the third grade end-of-grade test, in order to establish a baseline that will be used to measure academic growth at the end of third grade. Initially, the State Board shall select 12 volunteer local school administrative units that are diverse in geography and size to participate in the study. If the State Board determines that a standardized test administered in May, 12 months prior to the third grade end-of-grade test, is more reliable than a standardized test administered at the beginning of third grade for the purpose of measuring academic growth, the State Board may change the test date for additional local school units. The State Board shall report the results of the study to the Joint Legislative Education Oversight Committee by October 15, 2000.

Baseline measurements administered in May, 12 months prior to the third grade end-of-grade test**,** are not public records as provided in Chapter 132 of the General Statutes."

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Grady, Oldham

SUBSTITUTE TEACHERS

Section 9.16. (a) G.S. 115C-12(8) reads as rewritten:

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

~~The pay for a substitute shall be fixed by the Board.~~ The minimum pay for a substitute teacher who holds a teaching certificate shall be sixty-five percent (65%) of the daily pay rate of an entry-level teacher with an 'A' certificate. The minimum pay for a substitute teacher who does not hold a teaching certificate shall be fifty percent (50%) of the daily pay rate of an entry-level teacher with an 'A' certificate. The pay for noncertified substitutes shall not exceed the pay of certified substitutes.

Local boards may use State funds allocated for substitute teachers to hire full-time substitute teachers.

If a teacher assistant acts as a substitute teacher, the salary of the teacher assistant for the day shall be the same as the daily salary of an entry-level teacher with an 'A' certificate.

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

(b) If the average number of substitute teacher days taken by teachers in a local school administrative unit is higher than the statewide average, the local board of education shall determine the reasons unit average is high and shall develop a plan for decreasing the unit average.

(c) This section becomes effective January 1, 1999.

Requested by: Senators Winner, Lee

TORT CLAIM LIABILITY/SCHOOL BUSES

Section 9.17. (a) G.S. 115C-257 reads as rewritten:

"**§ 115C-257. Attorney General to pay claims.**

The Attorney General is hereby authorized to pay reasonable medical expenses, not to exceed ~~six hundred dollars ($600.00),~~ three thousand dollars ($3,000), incurred within one year from the date of accident to or for each pupil who sustains bodily injury

or death caused by accident, while boarding, riding on, or alighting from a school bus operated by any local school administrative unit."

(b) G.S. 143-300.1 reads as rewritten:

"**§ 143-300.1. Claims against county and city boards of education for accidents involving school buses or school transportation service vehicles.**

(a) The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of education, which claims arise as a result of any alleged mechanical defects or other defects which may affect the safe operation of a public school bus or school transportation service vehicle resulting from an alleged negligent act of maintenance personnel or as a result of any alleged negligent act or omission of the ~~driver~~ driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle when:

(1) ~~The salary of that driver is paid or authorized to be paid from the State Public School Fund, and the~~ The driver is an employee of the county or city administrative unit of which that board is the governing ~~body,~~ body, and the driver is paid or authorized to be paid by that administrative unit,

(1a) The monitor was appointed and acting in accordance with G.S. 115C-245(d),

(1b) The transportation safety assistant was employed and acting in accordance with G.S. 115C-245(e), or

(2) The driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of that board or a county or city administrative unit thereof,

and which driver was at the time of the alleged negligent act or omission operating a public school bus or school transportation service vehicle in accordance with G.S. 115C-242 in the course of his employment by or training for that administrative unit or ~~board.~~ board, which monitor was at the time of the alleged negligent act or omission acting as such in the course of serving under G.S. 115C-245(d), or which transportation safety assistant was at the time of the alleged negligent act or omission acting as such in the course of serving under G.S. 115C-245(e). The liability of such county or city board of education, the defenses which may be asserted against such claim by such board, the amount of damages which may be awarded to the claimant, and the procedure for filing, hearing and determining such claim, the right of appeal from such determination, the effect of such appeal, and the procedure for taking, hearing and determining such appeal shall be the same in all respects as is provided in this Article with respect to tort claims against the State Board of Education except as hereinafter provided. Any claim filed against any county or city board of education pursuant to this section shall state the name and address of such board, the name of the employee upon whose alleged negligent act or omission the claim is based, and all other information required by G.S. 143-297 in the case of a claim against the State Board of Education. Immediately upon the docketing of a claim, the Industrial Commission shall forward one copy of the

plaintiff's affidavit to the superintendent of the schools of the county or city administrative unit against the governing board of which such claim is made, one copy of the plaintiff's affidavit to the State Board of Education and one copy of the plaintiff's affidavit to the office of the Attorney General of North Carolina. All notices with respect to tort claims against any such county or city board of education shall be given to the superintendent of schools of the county or city administrative unit of which such board is a governing board, to the State Board of Education and also to the office of the Attorney General of North Carolina.

(b) The Attorney General shall be charged with the duty of representing the city or county board of education in connection with claims asserted against them pursuant to this section where the amount of the claim, in the opinion of the Attorney General, is of sufficient import to require and justify such appearance.

(c) In the event that the Industrial Commission shall make award of damages against any county or city board of education pursuant to this section, the Attorney General shall draw a voucher for the amount required to pay such award. The funds necessary to cover vouchers written by the Attorney General for claims against county and city boards of education for accidents involving school buses and school transportation service vehicles shall be made available from funds appropriated to the Department of Public Instruction. Neither the county or city boards of education, or the county or city administrative unit shall be liable for the payment of any award made pursuant to the provisions of this section in excess of the amount paid upon such voucher by the Attorney General. Settlement and payment may be made by the Attorney General as provided in G.S. 143-295.

(d) The Attorney General may defend any civil action which may be brought against the ~~driver~~ driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle or school bus maintenance mechanic when such driver or mechanic is ~~paid or authorized to be paid from the State Public School Fund~~ employed and paid by the local school administrative unit, when the monitor is acting in accordance with G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of a county or city board of education or administrative unit thereof. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in such civil action not to exceed the limit provided under the Tort Claims Act. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims which would be within the jurisdiction of the Industrial Commission under the Tort Claims Act."

(c) This section applies as to claims arising on or after July 1, 1998.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

EXTRA PAY FOR FORFEITED VACATION DAYS

Section 9.18. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of four million two hundred fifty thousand dollars ($4,250,000) for the 1998-99 fiscal year shall be used by local boards of education to pay teachers for working on, and thereby forfeiting, vacation days, in accordance with G.S. 115C-302.1(c). The State Board of Education shall make available to each local school administrative unit sufficient funds to provide pay for a maximum of six days for each teacher who is qualified to receive additional pay for forfeited vacation days under G.S. 115C-302.1(c). For the 1998-99 fiscal year, the funds allotted under this subsection shall be available for days scheduled by local boards and individual schools as follows: two for days scheduled by the local board of education under G.S. 115C-84.2(a)(4); and four for days scheduled by school principals in consultation with school improvement teams under G.S. 115C-84.2(a)(5).

(b) G.S. 115C-84.2 reads as rewritten:

"**§ 115C-84.2. School calendar.**

(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 220 days all of which shall fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.

(4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.

(5) The remaining days shall be scheduled by each individual school by the school's principal in consultation with the school improvement team. Days may be scheduled for any of the purposes allowed under subdivision (4) of this subsection. Days may be scheduled for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel.

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards and individual schools shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on days scheduled in accordance with subdivision (4) or (5) of this subsection. A teacher may elect to waive this notice requirement for one or more such days.

(b) Limitations. – The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays for teachers employed for a 10 month term shall not exceed 200 days.

(2) The calendar shall include at least ~~30~~ 42 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months. At the request of the local board of education or of the principal of a school, a teacher may elect to work on one of the 42 days when teacher attendance is not required in lieu of another scheduled workday.

(3) School shall not be held on Sundays.

(4) Veteran's Day shall be a holiday for all students enrolled in the public schools.

(c) Emergency Conditions. – During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit."

(c) The amendments to G.S. 115C-84.2(b)(2) set out in subsection (b) of this section apply to school years beginning with the 1999-2000 school year.

Requested by: Senators Winner, Lee, Perdue, Dalton, Representatives Arnold, Preston, Oldham

TEACHING FELLOWS PROGRAM

Section 9.19. (a) G.S. 115C-363.23A(a) reads as rewritten:

"(a) A Teaching Fellows Program shall be administered by the North Carolina Teaching Fellows Commission. The Teaching Fellows Program shall be used to provide a four-year scholarship loan of ~~five thousand dollars ($5,000)~~ six thousand five hundred dollars ($6,500) per year to North Carolina high school seniors interested in preparing to teach in the public schools of the State. The Commission shall adopt very stringent standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the best high school seniors receive them."

(b) Notwithstanding the provisions of G.S. 115C-363.23A(f), the Public School Forum, as administrator for the North Carolina Teaching Fellows Program, may spend, in addition to funds required for collection costs related to loan repayments, up to one hundred fifty thousand dollars ($150,000) for the 1998-99 fiscal year and for the 1999-2000 fiscal year from the fund balance for the Program for costs associated with administration of the Program.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

LIMITED ENGLISH PROFICIENCY

Section 9.20. (a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. If data for the prior three years are not available, the State Board shall use the most recent reliable data. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2 1/2%) of the average daily membership of the unit or charter school. No unit or charter school shall receive funds for more than ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, textbooks, classroom materials/instructional supplies/equipment, and staff development for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

(b) G.S. 115C-105.25(b)(4) reads as rewritten:

"(4) Funds allocated for children with special needs, for students with limited English proficiency, and ~~funds allocated~~ for driver's education shall not be transferred."

(c) The State Board of Education shall review its certification requirements for English as a Second Language (ESL) and determine whether the requirements should be revised in order to assist local school administrative units to

quickly obtain adequate numbers of qualified teachers. The State Board and the Board of Governors of The University of North Carolina shall coordinate efforts to provide ESL certification programs that are geographically disbursed throughout the State. The Board of Governors shall examine providing ESL certification programs through distance learning methods and off-campus programs.

(d) The State Board of Education shall identify existing or develop new programs that provide instructional personnel with in-service, noncertificate training for assisting students with limited English proficiency in the regular classroom. The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall collaborate with the State Board of Education in order to deliver these programs to geographically diverse locations.

(e) The State Board of Education shall survey local school administrative units to determine whether schools are able to recruit and retain ESL certified teachers. The State Board shall provide the results of this survey to the Joint Legislative Education Oversight Committee prior to December 15, 1999.

(f) G.S. 115C-238.29H(a) reads as rewritten:

"(a) The State Board of Education shall allocate to each charter ~~school (i) an~~ school:

(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with special needs and ~~(ii) an~~ for the allocation for children with limited English proficiency;

(2) An additional amount for each child attending the charter school who is a child with special ~~needs.~~ needs; and

(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with special needs leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with special needs enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with special needs."

Requested by: Senators Plyler, Winner, Lee, Representatives Holmes, Esposito, Creech, Crawford

DRIVERS EDUCATION FUNDS DO NOT REVERT/DRIVING EDUCATION CERTIFICATES

Section 9.21. (a) Section 12(b) of S.L. 1998-23 reads as rewritten:

"(b) This section becomes effective June 30, ~~1998, and expires when the Current Operations Appropriations and Capital Improvement Appropriations Act of 1998 becomes a law.~~ 1998."

(b) The State Board of Education may use funds appropriated for drivers education for the 1998-99 fiscal year for driving eligibility certificates.

(c) G.S. 20-11(n)(4) is amended by adding a new sub-subdivision to read:

"c1. The person who provides the academic instruction in the home in accordance with an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law."

(d) G.S. 115C-566 reads as rewritten:

"**§ 115C-566. Driving eligibility certificates; requirements.**

The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor and representatives of nonpublic schools, shall issue rules for the procedures a person who is or was enrolled in a home ~~school or~~ school, in a nonpublic school that is not accredited by the State Board of ~~Education~~ Education, or in an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law, must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

(1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.

(2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.

(3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate."

(e) This section constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement this act may adopt temporary rules to implement this act. This section shall continue in effect until all rules necessary to implement this act have become effective as either temporary or permanent rules.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

ADDITIONAL TEACHERS FOR MIDDLE SCHOOL CHILDREN WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 9.22. Section 8.29(c) of S.L. 1997-443 reads as rewritten:

"(c) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of three million two hundred thousand dollars ($3,200,000) for the 1997-98 fiscal year and the sum of three million two hundred thousand dollars ($3,200,000) for the 1998-99 fiscal year shall be used to provide additional teachers for middle school children who are academically below grade level. Middle school children are children in a school that serves grades six, seven, and eight, and no other grades.

(1) The State Board of Education shall allocate these teacher positions to pilot middle schools on the basis of the number of students in grade six who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. The funds shall be used in schools ~~that have at least 50 such students~~ at a ratio of one teacher to every 50 students. ~~No partial positions shall be allocated.~~ Positions shall be rounded to the nearest one-half position.

(2) The purpose of these funds is to improve the academic performance and the behavior of these students during the first school year after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

(3) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars ($25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools."

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

UNIFORM EDUCATION REPORTING SYSTEMS FUNDS/BUILDING LEVEL REPORTS ON SCHOOL FUNDING

Section 9.23. G.S. 115C-12(18) reads as rewritten:

"(18) Duty to Develop and Implement a Uniform Education Reporting System, Which Shall Include Standards and Procedures for Collecting Fiscal and Personnel Information.

a. The State Board of Education shall adopt standards and procedures for local school administrative units to provide timely, accurate, and complete fiscal and personnel information, including payroll information, on all school personnel. All local school administrative units shall comply with these standards and procedures by the beginning of the 1987-88 school year.

b. The State Board of Education shall develop and implement a Uniform Education Reporting System that shall include requirements for collecting, processing, and reporting fiscal, personnel, and student data, by means of electronic transfer of data files from local computers to the State Computer Center through the State Communications Network. All local school administrative units shall comply with the requirements of the Uniform Education Reporting System by the beginning of the 1989-90 school year.

c. The State Board of Education shall comply with the provisions of G.S. 116-11(10a) to plan and implement an exchange of information between the public schools and the institutions of higher education in the State. The State Board of Education shall require local boards of education to provide to the parents of children at a school all information except for confidential information received about that school from institutions of higher education pursuant to G.S. 116-11(10a) and to make that information available to the general public.

d. The State Board of Education shall modify the Uniform Education Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes. The revised Uniform Education Reporting System shall be implemented beginning with the 1999-2000 school year."

Requested by: Senators Reeves, Perdue

DUES DEDUCTION FOR RETIREES

Section 9.24. (a) Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-18.8. Deduction for payments to certain employees' associations allowed.**

Any member who is a member of a domiciled employees' association that has at least 2,000 members, the majority of whom are employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's

retirement benefits a designated lump sum to be paid to the employees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

(b) This section becomes effective January 1, 1999, and applies to retirement benefits paid on or after that date.

Requested by: Senators Winner, Odom

USE OF SCHOOL BUSES BY THE 2001 NATIONAL ASSOCIATION OF STUDENT COUNCILS CONFERENCE

Section 9.25.Notwithstanding any other provision of law, the Charlotte-Mecklenburg Board of Education may permit the use and operation of public school buses as the board deems necessary from June 1, 2001, through June 30, 2001, for the transportation needs of persons associated with the National Association of Student Councils Conference to be held in Charlotte.

State funds shall not be used for the use and operation of buses under this act.

The State of North Carolina shall incur no liability for any damages resulting from the use and operation of buses under this act. The National Association of Student Councils shall carry liability insurance covering the use and operation of buses under this act.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

UNIFORM EDUCATION REPORTING SYSTEM (UERS)/STUDENT INFORMATION MANAGEMENT SYSTEM (SIMS) FUNDS

Section 9.26. (a) The State Board of Education shall use funds appropriated for the Uniform Education Reporting System and the Student Information Management System for the 1998-99 fiscal year to begin the development of a replacement for the existing Student Information System. In developing the new system, the State Board shall give priority to the development of applications that maintain student records, maintain ABC accountability data, allow for the transfer of student records between local school administrative units, and facilitate the transfer of transcripts to institutions of higher education.

In designing the new system, the State Board shall develop a model for statewide implementation that maximizes the economies of scale with respect to operations, personnel, and hardware. The State Board's goal shall be to develop a new system that provides information to local schools, local school boards, and the State Board in the most cost-efficient manner.

The new system shall follow guidelines established by the Information Resources Management System.

The State Board may develop pilots of the new system.

(b) The State Board shall provide periodic reports to the Joint Legislative Education Oversight Committee on the development of the new system and shall report to the 1999 General Assembly on implementation of the pilot projects.

(c) Funds appropriated for the Uniform Education Reporting System and the Student Information Management System shall not revert at the end of the fiscal year but shall remain available until expended on the project.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Oldham

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Section 9.27. (a) Funds for small school systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from 3,150 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or less.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least $355,000, excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

(b) Nonsupplant requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1997-99 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county

has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

(c) Phase-out provision. – If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in population or an increase in the county adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive half of that amount.

(d) Definitions. – As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

(2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued

one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1999, on the results of its analysis of whether counties supplanted funds.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

SCHOOL ADMINISTRATION INTERNS

Section 9.29. During the 1998-99 fiscal year, a local school administrative unit may employ a person who is not certified as an assistant principal in an assistant principal position if (i) the person is a part-time student in an approved masters in school administration program and (ii) the employment of the person as an assistant principal is during the one-year internship under the masters program.

The placement shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher. The placement shall be only for the time the person participates in the internship and shall be for no more than one year.

PART X. COMMUNITY COLLEGES

Requested by: Senators Plyler, Purcell, Lee, Winner, Dalton, Representatives Arnold, Grady, Preston, Oldham

EXTEND FOR ONE YEAR THE DEADLINE FOR MATCHING COMMUNITY COLLEGE BOND FUNDS

Section 10. (a) Section 6(b)IV of Chapter 542 of the 1993 Session Laws, as added by Section 4 of Chapter 515 of the 1995 Session Laws, reads as rewritten:

"IV. If the State Board of Community Colleges determines that a community college has not met the matching requirements of G.S. 115D-31(a)(1) by July 1, ~~1998,~~ 1999, with respect to a capital improvement project for which bond proceeds are allocated in subdivision I or pursuant to subdivision II of this subsection, the Board shall certify that fact to the State Treasurer by October 1, ~~1998.~~ 1999. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, ~~1998,~~ 1999, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

(1) The State Board of Community Colleges shall generate, by October 1, ~~1998,~~ 1999, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful factors relevant to capital needs, including space to population ratio,

population served ratio, capacity enrollment ratio, local to State and vocational education ratios, type of project, and readiness to implement.

(2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:

a. No projected allocation shall be made for a community college that the Board certified in accordance with this subdivision IV had failed to meet a matching requirement.

b. No more than four million dollars ($4,000,000) shall be allocated to a single community college.

c. Funds shall not be allocated for more than one project per community college.

(3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes."

(b) Section 8 of S.L. 1998-23 is repealed.

(c) This section becomes effective June 30, 1998.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

INDEPENDENT STUDY OF CAPITAL BUDGET AND OPERATING BUDGET FUND ALLOCATIONS

Section 10.1. The State Board of Community Colleges shall contract with an outside consultant to:

(1) Review the community college capital allocation process and recommend modifications to the process necessary to make the process more equitable; and

(2) Study performance budget measures and recommend options for allocating community college funds on a performance budgeting basis.

The State Board may use funds from the State Board Reserve to implement this section.

The State Board shall report to the Joint Legislative Appropriations Subcommittees on Education and the Fiscal Research Division prior to February 1, 1999, on the implementation of this section.

Requested by: Senators Lee, Winner, Dalton, Representatives Arnold, Grady, Preston

COMMUNITY COLLEGE EQUIPMENT RESERVE FUND

Section 10.2. (a) G.S. 115D-31 reads as rewritten:

"**§ 115D-31. State financial support of institutions.**

(a) The State Board of Community Colleges shall be responsible for providing, from sources available to the State Board, funds to meet the financial needs of institutions, as determined by policies and regulations of the State Board, for the following budget items:

(1) Plant Fund. – Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land, construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State. Notwithstanding the provisions of this subdivision, G.S. 116-53(b), or G.S. 143-31.4, appropriations by the State of North Carolina for capital or permanent improvements for community colleges may be matched with any prior expenditure of non-State funds for capital construction or land acquisition not already used for matching purposes.

(2) Current Operating Expenses:

a. General administration. – Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.

b. Instructional services. – Salaries and other costs as determined by the State Board necessary to carry out the functions of instructional services.

c. Support services. – Salaries and other costs as determined by the State Board necessary to carry out the functions of support services.

(3) Additional Support for Regional Institutions as Defined in G.S. 115D-2(4). – Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the administrative area in which the regional institution is located shall be called the 'local factor,' the combined populations of all other counties served by the institution shall be called the 'State factor.' When the budget for the items listed in G.S. 115D-32(a)(2)a has been approved under the procedures set out in G.S. 115D-45, the administrative area in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State factor. If the local administrative area provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the administrative area funds.

Wherever the word 'population' is used in this subdivision, it shall mean the population of the particular area in accordance with the latest United States census.

(b) The State Board is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions.

(c) State funds appropriated to the State Board of Community Colleges for equipment and library ~~books~~ books, except for funds appropriated to the Equipment Reserve Fund, shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The Department shall identify to the Office of State Budget and Management the funds that revert at the end of the 12 months after the close of the fiscal year.

(d) State funds appropriated to the State Board of Community Colleges for the Equipment Reserve Fund shall be allocated to institutions in accordance with the equipment allocation formula for the fiscal period. An institution to which these funds are allocated shall spend the funds only in accordance with an equipment acquisition plan developed by the institution and approved by the State Board.

These funds shall not revert and shall remain available until expended in accordance with an approved plan."

(b) The State Board of Community Colleges shall allocate equipment funds appropriated for the 1998-99 fiscal year, including funds appropriated to the Equipment Reserve Fund, in accordance with the formula proposed to the General Assembly by the Board at its May 1998 meeting.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

BUDGET REALIGNMENT TO IMPLEMENT REORGANIZATION AUTHORIZED

Section 10.3. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may transfer funds within the budget of the Department of Community Colleges to the extent necessary to implement the departmental reorganization plan recommended by the President of the North Carolina Community College System and adopted by the State Board.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

CONTINUING BUDGET CONCEPT

Section 10.4. (a) The State Board of Community Colleges shall implement the continuing budget concept for full-time equivalent students (FTE) earned for the 1998-99 fiscal year as follows:

(1) Community colleges that experience a decline in enrollment shall not receive a decrease in full-time equivalent student (FTE) enrollment funds until their enrollment declines more than three percent (3%). At that time, they shall experience a decline of only the amount over three percent (3%);

(2) Community colleges that experience an increase in enrollment shall not receive an increase in full-time equivalent student (FTE) enrollment funds until their enrollment increases more than two percent (2%). At that time, they shall experience an increase of only the amount over two percent (2%).

(b) The State Board of Community Colleges shall implement the continuing budget concept for subsequent fiscal years by funding (i) the average earned full-time equivalent student (FTE) enrollment for the prior three fiscal years, or (ii) the earned full-time equivalent student (FTE) enrollment for the prior fiscal year, whichever is greater.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

ANNUAL REVIEW ACCOUNTABILITY ENHANCED

Section 10.5. The General Assembly finds that the current annual program review standards are not adequate to ensure that programs are meeting the needs of students, employers, and the general public; therefore, the State Board of Community Colleges shall review the current standard to ensure a higher degree of program accountability and shall establish appropriate levels of performance for each measure based on sound methodological practices.

The State Board shall make an interim report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division on its improved accountability measures prior to November 1, 1998, and a final report prior to February 1, 1999.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

DEVELOPMENT OF MANAGEMENT INFORMATION SYSTEM

Section 10.6. The State Board of Community Colleges shall develop a plan for an efficient and effective technology and management information system. The system shall be designed to support the North Carolina Community College System's planning, evaluation, communication, resource management, full-time equivalent student (FTE) reporting, and decision-making processes. The plan shall identify the technology and management information needs of the local colleges and the Department of Community Colleges, the costs of meeting these needs, and the benefits of meeting them.

The State Board shall report to the Joint Legislative Education Oversight Committee prior to February 1, 1999, on the plan it develops.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

COOPERATIVE HIGH SCHOOL EDUCATION PROGRAM ACCOUNTABILITY

Section 10.7. (a) It is the goal of the General Assembly to increase the number of qualified high school students participating in cooperative high school education programs that are provided by local community colleges through cost-effective programs that do not duplicate high school Advanced Placement courses that are currently being offered or that could feasibly be offered. These programs shall provide additional higher education opportunities for qualified high school students while minimizing overlapping costs to the State for public schools and community colleges.

(b) The State Board of Community Colleges and the State Board of Education shall create a joint task force to study the existing policies for cooperative high school education programs and to recommend changes necessary to improve the programs' success and accountability. The Boards shall report their findings and recommendations to the Joint Legislative Education Oversight Committee and the Fiscal Research Division prior to March 1, 1999.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

REPORTING REQUIREMENTS

Section 10.8. The local institutions of the North Carolina Community College System shall comply with annual reporting requirements established by the State Board of Community Colleges; therefore, the State Board of Community Colleges shall develop an action plan to improve the timeliness and accuracy of the data that are required to be reported to the State Board by each institution. This plan shall include withholding State funds from the institution if an institution is not in compliance.

The plan shall be approved and implemented by October 30, 1998.

Requested by: Senators Lee, Winner, Dalton, Purcell, Representatives Arnold, Preston, Grady, Oldham

COMMUNITY COLLEGE TUITION STUDY

Section 10.9. The Joint Legislative Education Oversight Committee shall study community college tuition in light of (i) recent proposals intended to maximize the opportunities of North Carolina residents to continue their education after high school and (ii) federal "Hope Scholarships". The Committee shall report the results of its study to the Appropriations Subcommittees on Education of the Senate and the House of Representatives prior to January 15, 1999.

Requested by: Senators Hoyle, Lee, Winner, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

HOSPITALITY AND TOURISM JOB TRAINING PROGRAMS

Section 10.10. (a) The State Board of Community Colleges shall study hospitality and tourism job training programs offered by the local institutions of the North Carolina Community College System. The State Board of Community Colleges shall collaborate with the Board of Governors of The University of North Carolina, the State Board of Education, and the Department of Commerce to improve articulation between institutions with regard to hospitality and tourism job training programs. The efforts to improve articulations shall be considered a joint venture of these educational institutions that are participating members of the Culinary, Hospitality, Tourism Education Alliance (CHTEA), and of the Department of Commerce and the travel and tourism industry.

(b) The State Board of Community Colleges, the State Board of Education, the Board of Governors of The University of North Carolina, and the Department of Commerce shall report jointly to the Joint Legislative Education Oversight Committee prior to April 1, 1999, on the following:

(1) An inventory of all curriculum, continuing education, and job training programs offered in the State that support the travel, tourism, and hospitality industries;

(2) Recommendations for improvements to the programs and a system of program accountability; and

(3) Recommendations on ways to improve communication between the industry and the Boards and to enhance efforts to promote the programs.

Requested by: Senators Lee, Winner, Dalton, Purcell, Representatives Arnold, Grady, Preston, Oldham

ROANOKE-CHOWAN COMMUNITY COLLEGE/SHELTERED WORKSHOP

Section 10.11. (a) Roanoke-Chowan Community College may use proceeds derived from the lease of buildings associated with the sheltered workshop to phase out the sheltered workshop operation.

(b) This section shall remain in effect until the closeout of the sheltered workshop has been accomplished.

Requested by: Senators Rand, Lee

COMMUNITY COLLEGE TUITION WAIVER

Section 10.12. It is the intent of the General Assembly to provide a tuition waiver for up to two years, to the extent that funds are appropriated expressly for that purpose, to deserving students who graduate from a North Carolina high school and are enrolled full-time in a North Carolina community college within six months of graduation.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

COMMUNITY COLLEGE TO SERVE ANSON AND UNION COUNTIES

Section 10.13. The Union County Commissioners and the Anson County Commissioners shall develop and submit to the State Board of Community Colleges prior to February 1, 1999, (i) a contract for establishment of a new multicampus community college to serve the two counties, or (ii) a proposal for separate community colleges to serve the two counties, or (iii) another proposal for providing access to community college courses to the citizens of Union and Anson Counties.

If the two boards of Commissioners do not jointly submit a single proposal to the State Board of Community Colleges, the State Board of Community Colleges shall, prior to February 28, 1999, and after consultation with the Joint Legislative Education Oversight Committee, use funds within the Department's budget to employ an independent consultant to study the issue. The consultant shall assess the community college program and service needs of Union and Anson Counties and make recommendations for the best organizational and service delivery system to address the identified needs.

The State Board of Community Colleges shall report its recommendations, based on the consultant's report, to the Appropriations Committees of the Senate and the House of Representatives prior to May 1, 1999.

Requested by: Senators Lee, Winner, Dalton, Purcell, Perdue

PRISON PROGRAM START-UP FUNDS

Section 10.14. Funds appropriated for private prison program start-up shall be allocated in accordance with actual, noninflated, start-up costs based on the date the programs begin operation. It is the intent of the General Assembly to reimburse in the 1999-2000 fiscal year any audited, actual expenditures for private prison program start-up at Pamlico and Mayland Community Colleges that were incurred during the 1998-99 fiscal year.

PART XI. UNIVERSITIES

Requested by: Senators Lee, Winner, Dalton, Representatives Arnold, Grady, Preston, Oldham

UNC INCENTIVE FUNDING

Section 11. (a) G.S. 116-30.3 reads as rewritten:

"**§ 116-30.3. Reversions.**

(a) Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each budget code of a special responsibility constituent institution, except for the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than two percent (2%) of the General Fund appropriation for that fiscal year may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. Of the General Fund current operations appropriations credit balance remaining in the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than one percent (1%) of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.

(b) An institution shall cease to be a special responsibility constituent institution under the following circumstances:

(1) An institution, other than the Area Health Education Centers of the University of North Carolina, does not revert at least two percent (2%) of its General Fund current operations credit balance remaining in each budget code of that institution, or

(2) The Area Health Education Centers of the University of North Carolina at Chapel Hill does not revert at least one percent (1%) of its General Fund current operations credit balance remaining in its budget code.

However, if the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions, the Board may allow the institution to remain a special responsibility constituent institution for one year to come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations.

~~(c) One-half of the reversions required in subsection (a) and (b) of this section shall be returned to the General Fund credit balance at the end of each fiscal year.~~

(d) For fiscal year ~~1997-98 and each subsequent fiscal year,~~ 1998-99, ~~one-half of~~ the reversions required in subsections (a) and (b) of this section shall be available to each special responsibility constituent institution of The University of North Carolina. ~~Those~~ One-half of those funds shall be used ~~by the institution at the campus level for any of the following: the nonrecurring costs of technology, including the installation of technology infrastructure for academic facilities on the campus of the special responsibility constituent institution, the implementation by the constituent institution of its campus technology plan as approved by the Board of Governors, or for libraries.~~ for technology infrastructure development in accordance with the Board of Governors' Plan for Technology Development. Those funds may be used as partial funding for

multicampus contracts if so directed by the Board of Governors, but the amount spent on each Special Responsibility Constituent Institution's campus shall be at least the equivalent of one percent (1%) of that institution's General Fund operating appropriation for fiscal year 1998-99. The funds shall not be used to support positions. Each special responsibility constituent institution shall report annually to the Board of Governors regarding how the institution spent the funds made available under this section."

(b) Effective July 1, 1999, G.S. 116-30.3, as amended by subsection (a) of this section, reads as rewritten:

"**§ 116-30.3. Reversions.**

~~(a)~~ Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each budget code of a special responsibility constituent institution, except for the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount ~~greater than two percent (2%)~~ of the General Fund appropriation for that fiscal year may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. Of the General Fund current operations appropriations credit balance remaining in the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount ~~greater than one percent (1%)~~ of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.

~~(b) An institution shall cease to be a special responsibility constituent institution under the following circumstances:~~

~~(1) An institution, other than the Area Health Education Centers of the University of North Carolina, does not revert at least two percent (2%) of its General Fund current operations credit balance remaining in each budget code of that institution, or~~

~~(2) The Area Health Education Centers of the University of North Carolina at Chapel Hill does not revert at least one percent (1%) of its General Fund current operations credit balance remaining in its budget code.~~

~~However, if the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions, the Board may allow the institution to remain a special responsibility constituent institution for one year to come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations.~~

~~(d) For fiscal year 1998-99, the reversions required in subsections (a) and (b) of this section shall be available to each special responsibility constituent institution of The~~

~~University of North Carolina. One-half of those funds shall be used for technology infrastructure development in accordance with the Board of Governors' Plan for Technology Dvelopment. Those funds may be used as partial funding for multi-campus contracts if so directed by the Board of Governors, but the amount spent on each Special Responsibility Constituent Institution's campus shall be at least the equivalent of one percent of that institution's General Fund operating appropriation for 1998-99. The funds shall not be used to support positions. Each special responsibility constituent institution shall report annually to the Board of Governors regarding how the institution spent the funds made available under this section~~."

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

NATURAL RESOURCES LEADERSHIP INSTITUTE

Section 11.1. For the 1998-99 fiscal year, the requirement for reversion of General Fund appropriations as required by G.S. 116-30.3 for the Cooperative Extension Service budget code at North Carolina State University is reduced by one hundred seventy thousand dollars ($170,000) in order to provide funding for the Natural Resource Leadership Institute sponsored by the Cooperative Extension Service.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

INCENTIVE SCHOLARSHIP PROGRAM FOR NATIVE AMERICANS

Section 11.2. Section 17.3(a) of Chapter 769, 1993 Session Laws, reads as rewritten:

"Sec. 17.3. (a) The Board of Governors of The University of North Carolina shall establish the Incentive Scholarship Program for Native Americans to provide opportunities for Native Americans who are residents of North Carolina to attend constituent institutions of The University of North Carolina under rules adopted by the Board of Governors. Scholarships awarded under the program shall carry a maximum value of three thousand dollars ($3,000) per recipient per academic year, ~~reduced by any amount of need-based aid that the recipient may receive from Pell Grants, North Carolina Student Incentive Grants, Supplemental Educational Opportunity Grants, or the American Indian Student Legislative Grant Program.~~ to be awarded after all other need-based grants for which the recipient is eligible have been included in the student's financial aid package. The maximum amount of the award shall not exceed the cost of attendance budget used to calculate financial aid less other need-based aid received, and in no case shall the award exceed three thousand dollars ($3,000). To be eligible for such a scholarship, a student shall be a Native American, defined as an individual who maintains cultural identification as a Native American through membership in an Indian tribe recognized by the United States or by the State of North Carolina or through other tribal affiliation or community recognition."

Requested by: Senators Lee, Winner, Plyler, Representatives Arnold, Grady, Preston

AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE

Section 11.3. Section 10.4 of S.L. 1997-443 reads as rewritten:

"Section 10.4. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to ~~seven hundred fifty dollars ($750.00)~~ nine hundred dollars ($900.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

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

(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed ~~one thousand four hundred fifty dollars ($1,450)~~ one thousand six hundred dollars ($1,600) per academic year, which shall be distributed to the student as hereinafter provided.

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

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

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

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

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

Any remaining funds shall revert to the General Fund.

(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning. Expenditures made pursuant to this section shall not be used for any student who:

(1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or

(2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

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

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program."

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

UNC EQUITY FUNDS/CAPITAL FACILITIES STUDY

Section 11.4. Section 10.1 of S.L. 1997-443 reads as rewritten:

"Section 10.1. (a) The funds appropriated to the Board of Governors of The University of North Carolina for equity funds are to address relative inequities in State operating funding revealed through a study of the constituent institutions in the university system. The General Assembly notes that the study dealt with equity based upon current funding from State appropriations and tuition for operations and did not consider historical equity in funding for physical facilities or funding from non-State sources. Therefore, in making this appropriation, the General Assembly does not conclude that the total funding of any institution, including specifically the historically black universities, is adequate in light of all considerations.

(b) Based on findings of the Legislative Study Commission on the Status of Education at The University of North Carolina, the General Assembly is still concerned about perceived differences in the quality of capital facilities on the different campuses, which may impact the ability of some campuses to attract students and faculty. Since the Board of Governors has recently completed studies of equity of funding for operating costs among the constituent institutions and of the Board of Governors' capital improvements request process, it is timely that the question of equity of facilities be addressed.

The Board of Governors of The University of North Carolina shall study the relative equity and adequacy of the physical facilities of its constituent institutions. The study shall consider the condition of the facilities, whether or not facilities are comparable among the campuses given the different missions of the institutions, comparable adequacy of the physical facilities given the size and projected growth of the school,

and such other factors deemed appropriate by the Board of Governors. The study shall include all facilities contributing to the accomplishment of the campuses' missions. First, the Board of Governors shall study those facilities considered central to the academic missions of the campuses that are generally supported from General Fund appropriations. Secondly, the Board of Governors shall study those facilities that contribute to the overall missions of the campuses, including residential, dining, research, and other facilities regardless of the sources of funding. The Board of Governors shall consider its policies on funding of self-liquidating projects and whether those policies contribute to any inequities among the campuses, including the overall costs to the students.

~~The Board of Governors shall report to the General Assembly by January 15, 1999, with the results of its study. The report shall include recommendations to rectify any inequities or inadequacies found in the study.~~

(c) The Board of Governors shall contract with a private consulting firm with expertise in higher education matters to assess the additional capital needs of the constituent institutions of The University of North Carolina. The needs assessment shall project the needs for capital funding for a 10-year period, and shall include a detailed plan for making funding allocations based on the priorities of needs.

The plan shall provide a detailed capital spending plan for the next 10 years to assist the General Assembly in making funding decisions relating to The University of North Carolina, as the State plans for major increases in enrollment in higher education and prepares its citizens to compete in a global economy. The plan shall include considerations of the costs and changes in capital needs caused by new technologies and alternative systems for delivery of higher education services.

The consultant shall visit each campus in The University of North Carolina system to understand the needs of each campus based on their assigned missions, physical needs, and plans.

The Board and its consultant shall provide interim progress reports to the General Assembly on a periodic basis. The Board of Governors shall report to the General Assembly by April 15, 1999, with the results of its study and plan.

Of the funds appropriated to the Board of Governors for fiscal year 1998-99, up to two hundred fifty thousand dollars ($250,000) may be reallocated for the purposes of this section, including funds that would normally revert to the General Fund at the end of the fiscal year."

Requested by: Senators Lee, Winner, Dalton, Purcell, Representatives Arnold, Preston, Oldham

MANUFACTURING EXTENSION PARTNERSHIP

Section 11.5. Section 10.7 of S.L. 1997-443 reads as rewritten:

"Section 10.7. Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of ~~nine hundred thousand dollars ($900,000)~~ seven hundred fifty thousand dollars ($750,000) for the ~~1997-98~~ 1998-99 fiscal year shall be allocated to North Carolina State University to match additional federal funds for the Manufacturing Extension Partnership Program."

Requested by: Senators Lee, Winner, Warren, Perdue, Dalton, Purcell, Representatives Arnold, Preston, Oldham

EAST CAROLINA DOCTORAL II CLASSIFICATION

Section 11.6. Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1998-99 fiscal year, the sum of one million five hundred thousand dollars ($1,500,000) shall be allocated to East Carolina University in recognition of the designation of that institution as a Doctoral II University. The funds may be used for additional faculty, increases in faculty salaries, increases in the number of graduate student tuition remissions, and other enhancements required to meet the needs of a Doctoral II institution. The use of these funds shall be in accord with the plan developed for the Board of Governors for adjusting the funding for East Carolina University to a level appropriate for Doctoral II University status. East Carolina University shall report to the Board of Governors, the Office of State Budget and Management, and the Fiscal Research Division on the allocation of these funds within its budgets.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

UNC DISTANCE EDUCATION

Section 11.7. This act provides funding to The University of North Carolina Board of Governors for degree-related courses provided away from the campus sites of the constituent institutions of The University of North Carolina. The intent of this commitment is to provide expanded opportunities for higher education to more North Carolina residents, including nontraditional students, and to increase the number of North Carolina residents who earn post-secondary degrees.

These funds shall be used for the provision of off-campus higher education programs, including the costs for the development or adaptation of programs for this purpose, and the funds may be used for the costs of providing space and services at the off-campus sites.

Prior to approving funding for off-campus programs in nursing, the Board shall consult with the central office of the Area Health Education Centers (AHEC) to obtain information about regional needs and priorities and to coordinate funding with AHEC efforts in nursing education.

The Board of Governors shall track these funds separately in order to provide data on the costs of providing these programs, including the different costs for various methods of delivery of educational programs. The Board of Governors shall provide for evaluation of these off-campus programs, including comparisons to the costs and quality of on-campus delivery of similar programs, as well as the impact on access to higher education and the educational attainment levels of North Carolina residents. The Board shall provide a preliminary report to the General Assembly by May 1, 2000, and subsequent evaluations, including recommendations for changes, shall be made at least biennially to the Joint Legislative Education Oversight Committee.

Requested by: Senators Winner, Rand, Representatives Arnold, Grady, Preston, Morgan

UNC HEALTH CARE SYSTEM GOVERNANCE/MANAGEMENT FLEXIBILITY – EAST CAROLINA UNIVERSITY MEDICAL FACULTY PRACTICE PLAN MANAGEMENT FLEXIBILITY

Section 11.8. (a) G.S. 116-37 reads as rewritten:

"~~**§ 116-37. University of North Carolina Hospitals at Chapel Hill.**~~

~~(a) Composition. – The Board of Governors of the University of North Carolina is hereby directed to create a board of directors for the University of North Carolina Hospitals at Chapel Hill consisting of 12 members of which nine shall be appointed by the Board of Governors. Three members ex officio of said board shall be the University of North Carolina at Chapel Hill Vice-Chancellor for Health Affairs, University of North Carolina at Chapel Hill Vice-Chancellor for Business and Finance, and the Dean of the University of North Carolina at Chapel Hill Medical School, or successors to these offices under other titles with similar responsibilities. Nine members shall be appointed from the business and professional public at-large, none of whom shall be Governors of the University, and, thereafter, the nine appointive members shall select one of their number to serve as chairman. Members of this board shall include, but not be limited to, persons with special competence in business management, hospital administration, and medical practice not affiliated with University faculty. The Governors may remove any member for cause. Board members, other than ex officio members, shall each receive such per diem and necessary travel and subsistence expenses while engaged in the discharge of their official duties as is provided by law for members of State boards and commissions generally.~~

~~(a1) Appointment to Board. – Each of the nine persons who, as of June 30, 1989, is serving as an appointed member of the Board shall be reassigned by the Governors, each to a different term, ending June 30, 1989, June 30, 1990, June 30, 1991, June 30, 1992, June 30, 1993, June 30, 1994, June 30, 1995, June 30, 1996, or June 30, 1997. After July 1, 1989, the term of office for new appointments shall commence on July 1, and all members shall serve for four-year terms; provided, however, that no person may be appointed to (i) more than three full four-year terms in succession, or (ii) a four-year term if preceded immediately by 12 years of service. Resignation from a term of office shall not constitute a break in service for the purpose of this subsection. Board member vacancies shall be filled by the Governors for the remainder of the unexpired term.~~

~~(b) Meetings and Powers of Board. – The board of directors shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of its chairman. The board of directors shall make rules, regulations, and policies governing the management and operation of the University of North Carolina Hospitals at Chapel Hill, consistent with basic State statutes and procedures, to meet the goals of education, research, patient care, and community service. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the University administration. The board of directors shall elect and may remove the executive director of the University of North Carolina Hospitals at Chapel Hill. The board of directors may enter into formal~~

~~agreements with the University of North Carolina at Chapel Hill, Division of Health Affairs, with respect to the provision of clinical experience for students and may also enter into formal agreements with the University of North Carolina at Chapel Hill for the provision of maintenance and supporting services.~~

~~(c) Executive Director. — The chief administrative officer of the University of North Carolina Hospitals at Chapel Hill shall be the executive director, who shall be appointed by the board of directors to serve at its pleasure. The executive director shall administer the affairs of the University of North Carolina Hospitals at Chapel Hill subject to the duly adopted policies, rules, and regulations of the board of directors, including the appointment, promotion, demotion, and discharge of all personnel. The executive director shall report to the board of directors quarterly or more often as required. The executive director will serve as secretary to the board of directors.~~

~~(d) Personnel. — The University of North Carolina Hospitals at Chapel Hill shall maintain a personnel office for personnel administration. Notwithstanding the provisions of Chapter 126 of the General Statutes to the contrary, the Board of Directors of the University of North Carolina Hospitals at Chapel Hill shall establish policies and rules governing the study and implementation of competitive position classification and compensation plans for registered and licensed practical nurse positions that have been approved by the Board of Directors. These plans shall provide for minimum, maximum, and intermediate rates of pay, and may include provisions for range revisions and shift premium pay and for salary adjustments to address internal inequities, job performance, and market conditions. The Office of State Personnel shall review the classification and compensation plans on an annual basis. All changes in compensation plans for these registered and licensed practical nurse positions shall be submitted to the Office of State Personnel upon implementation.~~

~~(e) Finances. — The University of North Carolina Hospitals at Chapel Hill shall be subject to the provisions of the Executive Budget Act. There shall be maintained a business and budget office to administer the budget and financial affairs of the University of North Carolina Hospitals at Chapel Hill. The executive director, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. Subject to the approval of the Director of the Budget: All operating funds of the University of North Carolina Hospitals at Chapel Hill may be budgeted and disbursed through a special fund code, all receipts of the University of North Carolina Hospitals at Chapel Hill may be deposited directly to the special fund code; and general fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill may be budgeted in a general fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations"and be transferable to the special fund operating code as receipts. Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission.~~

~~(e1) Finances — Patient/Hospital Benefit. — The Executive Director of the University of North Carolina Hospitals at Chapel Hill or the Director's designee, may expend operating budget funds, including State funds, of the University of North Carolina Hospitals at Chapel Hill for the direct benefit of a patient, when, in the~~

~~judgment of the Executive Director or the Director's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Hospitals at Chapel Hill. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Hospitals at Chapel Hill for which the hospitals may bill and pursue recovery in the same way as allowed by law for recovery of other hospitals' charges for services that are unpaid.~~

~~These expenditures shall be limited to no more than seven thousand five hundred dollars ($7,500) per patient per admission and shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility pending approval of third party entitlement benefits; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; (v) or to pay health insurance premiums. The Executive Director or the Director's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.~~

~~To the extent that the University of North Carolina Hospitals at Chapel Hill advance anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump sum "backpay"award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this backpay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Hospitals at Chapel Hill, if, prior to the disbursement of the backpay, the applicable State program has received notice from the University of North Carolina Hospitals at Chapel Hill of the advancement.~~

~~(f) Purchases. — The University of North Carolina Hospitals at Chapel Hill shall be subject to all provisions of Articles 3 and 3A of Chapter 143 of the General Statutes relating to the Department of Administration, Purchase and Contract Division. There shall be maintained a purchasing office to handle all purchasing requirements of the University of North Carolina Hospitals at Chapel Hill. The Purchase and Contract Division may enter into such arrangements with the board of directors as the Division may deem necessary in consideration of the special requirements of the University of North Carolina Hospitals at Chapel Hill for procurement of certain supplies, materials, equipments and services.~~

~~(g) Property. — The board of directors shall be responsible to the University Board of Governors for the maintenance, operation, and control of the University of North Carolina Hospitals at Chapel Hill and grounds.~~

~~(h) Patient Information. — The University of North Carolina Hospitals at Chapel Hill shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose the patient's Social Security number, if any. If the patient does not disclose that number, the University of North Carolina Hospitals at Chapel Hill shall deny benefits, rights and privileges of the University of North Carolina Hospitals at Chapel Hill to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. The University of North Carolina Hospitals at Chapel Hill shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c).~~

"**§ 116-37. University of North Carolina Health Care System.**

(a) Creation of System. –

(1) There is hereby established the University of North Carolina Health Care System, effective November 1, 1998, which shall be governed and administered as an affiliated enterprise of The University of North Carolina in accordance with the provisions of this section, to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina.

(2) As of November 1, 1998, all of the rights, privileges, liabilities, and obligations of the board of directors of the University of North Carolina Hospitals at Chapel Hill, not inconsistent with the provisions of this section, shall be transferred to and assumed by the board of directors of the University of North Carolina Health Care System.

(3) The University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill shall be governed by the board of directors of the University of North Carolina Health Care System.

(4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of this section, the board of directors may adopt policies that make the authorities and responsibilities established by one or more of said subsections separately applicable either to the University of North Carolina Hospitals at Chapel Hill or to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, or to both.

(5) To effect an orderly transition, the policies and procedures of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill and of the University of North Carolina Hospitals at Chapel Hill effective as of October 31, 1998, shall remain effective in accordance with their terms until changed by the Board of Directors of the University of North Carolina Health Care System.

(b) Board of Directors. – There is hereby established a board of directors of the University of North Carolina Health Care System, effective November 1, 1998.

(1) The board of directors initially shall be composed as follows:

a. A minimum of six members ex officio of said board shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; two administrative officers of the University of North Carolina at Chapel Hill designated by the Chancellor of that institution; and

two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine; provided, that if not such a member ex officio by virtue of holding one or more of the offices aforementioned, additional ex officio memberships shall be held by the President of the University of North Carolina Hospitals at Chapel Hill and the Dean of the School of Medicine of the University of North Carolina at Chapel Hill, for a total potential ex officio membership of eight.

b. No less than nine and no more than 21 members at large, which number shall be determined by the board of directors, shall be appointed for four-year terms, commencing on November 1 of the year of appointment; provided, that the initial class of at-large members shall include the persons who hold the appointed memberships on the board of directors of the University of North Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998, with their terms of membership on the board of directors of the University of North Carolina Health Care System to expire on the last day of October of the year in which their term as a member of the board of directors of the University of North Carolina Hospitals at Chapel Hill would have expired. Vacant at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. Members shall be appointed by the President of the University, and ratified by the Board of Governors, from among a slate of nominations made by the board of directors of the University of North Carolina Health Care System, said slate to include at least twice as many nominees as there are vacant positions to be filled. No member may be appointed to more than two full four-year terms in succession; provided, that persons holding appointed memberships on November 1, 1998, by virtue of their previous membership on the board of directors of the University of North Carolina Hospitals at Chapel Hill, shall not be eligible, for a period of one year following expiration of their term, to be reappointed to the board of directors of the University of North Carolina Health Care System. Any vacancy in an unexpired term shall be filled by an

appointment made by the President, and ratified by the Board of Governors, upon the nomination of the board of directors, for the balance of the term remaining.

(2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman from among the at-large members, for a term of two years; no person shall be eligible to serve as chairman for more than three terms in succession.

(3) The board of directors of the University of North Carolina Health Care System shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of the chairman. Board members, other than ex officio members, shall receive the same per diem and reimbursement for travel expenses as members of the State boards and commissions generally.

(4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina.

(c) Officers. –

(1) The executive and administrative head of the University of North Carolina Health Care System shall have the title of 'Chief Executive Officer.' The board of directors, in cooperation with the board of trustees and the Chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the Chancellor deem appropriate, shall identify, in cooperation with the Chancellor, two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the Chancellor,

have the qualifications for both the positions of Chief Executive Officer and Vice-Chancellor for Medical Affairs of the University of North Carolina at Chapel Hill. The names of the candidates so identified shall be forwarded by the Chancellor to the President of The University of North Carolina, who if satisfied with the quality of one or more of the candidates, will nominate one as Chief Executive Officer, subject to selection by the Board of Governors. The Chief Executive Officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care System, subject to all requirements of the board of directors.

(2) The executive and administrative head of the University of North Carolina Hospitals at Chapel Hill shall have the title of 'President of the University of North Carolina Hospitals at Chapel Hill.'

(3) The board of directors shall elect, on nomination of the Chief Executive Officer, the President of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees as may be deemed necessary to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall serve at the pleasure of the Chief Executive Officer.

(d) Personnel. – Employees of the University of North Carolina Health Care System shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the University of North Carolina Health Care System, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the board of directors; provided, that with respect to such employees as may be members of the faculty of the University of North Carolina at Chapel Hill, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of The University of North Carolina.

(1) The board of directors shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position classification plans for employees of the University of North Carolina Health Care System.

(2) The board of directors may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective

career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.

(3) The board of directors may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the University of North Carolina Health Care System.

(4) The board of directors may establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of directors may direct.

The board of directors shall submit all initial classification and pay plans and other rules and regulations adopted pursuant to subdivisions (1) through (4) of this subsection to the Office of State Personnel for review upon adoption by the board. Any subsequent changes to these plans, rules, and policies adopted by the board shall be submitted to the Office of State Personnel for review. Any comments by the Office of State Personnel shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the Executive Budget Act. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, 'Contribution to University of North Carolina Hospitals at Chapel Hill Operations' and be transferable to a special fund operating code as receipts.

(f) Finances – Patient/Health Care System Benefit. – The Chief Executive Officer of the University of North Carolina Health Care System, or the Chief Executive Officer's designee, may expend operating budget funds, including State funds, of the University of North Carolina Health Care System for the direct benefit of a patient, when, in the judgment of the Chief Executive Officer or the Chief Executive Officer's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Health Care System. Any such expenditures are declared to result in the provision of medical services and create charges of the University of

North Carolina Health Care System for which the health care system may bill and pursue recovery in the same way as allowed by law for recovery of other health care systems' charges for services that are unpaid.

These expenditures shall be limited to no more than seven thousand five hundred dollars ($7,500) per patient per admission and shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility pending approval of third-party entitlement benefits; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; or (v) to pay health insurance premiums. The Chief Executive Officer or the Chief Executive Officer's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Health Care System advances anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump-sum 'back-pay' award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this back pay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Health Care System, if, prior to the disbursement of the back pay, the applicable State program has received notice from the University of North Carolina Health Care System of the advancement.

(g) Reports. – The Chief Executive Officer and the President of The University of North Carolina jointly shall report by September 30 of each year on the operations and financial affairs of the University of North Carolina Health Care System to the Joint Legislative Commission on Governmental Operations. The report shall include the actions taken by the board of directors under the authority granted in subsections (d), (h), (i), and (j) of this section.

(h) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the board of directors shall establish policies and regulations governing the purchasing requirements of the University of North Carolina Health Care System. These policies and regulations shall provide for requests for proposals, competitive bidding, or purchasing by means other than competitive bidding, contract negotiations, and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical, educational, research, and community service missions of the University of North Carolina Health Care System. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the Division of Purchase and Contract for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the Division of Purchase and Contract for review. Any comments by the Division of Purchase and Contract shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(i) Property. – Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the board of directors shall establish rules and

regulations to perform the functions otherwise prescribed for the Department of Administration in acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State.

(j) Property – Construction. – Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the board of directors shall adopt policies and procedures with respect to the design, construction, and renovation of buildings, utilities, and other property developments of the University of North Carolina Health Care System requiring the expenditure of public money for:

(1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.

(2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).

(3) Using open-end design agreements.

(4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Facility Services of the Department of Health and Human Services.

(5) Using the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

The board of directors shall submit all initial policies and procedures adopted under this subsection to the Office of State Construction for review upon adoption by the board. Any subsequent changes to these policies and procedures adopted by the board shall be submitted to the Office of State Construction for review. Any comments by the Office of State Construction shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(k) Patient Information. – The University of North Carolina Health Care System shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose the patient's social security number, if any. If the patient does not disclose that number, the University of North Carolina Health Care System shall

deny benefits, rights, and privileges of the University of North Carolina Health Care System to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. The University of North Carolina Health Care System shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c)."

(b) G.S. 126-5 is amended by adding a new subsection to read:

"(c8) Except as to the provisions of Articles 5, 6, 7, and 14 of this Chapter, the provisions of this Chapter shall not apply to:

(1) Employees of the University of North Carolina Health Care System.

(2) Employees of the University of North Carolina Hospitals at Chapel Hill, as may be provided pursuant to G.S. 116-37(a)(4).

(3) Employees of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill as may be provided pursuant to G.S. 116-37(a)(4).

(4) Employees of the Medical Faculty Practice Plan, a division of the School of Medicine of East Carolina University."

(c) G.S. 143-56 reads as rewritten:

"**§ 143-56. Certain purchases excepted from provisions of Article.**

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

(1) Published books, manuscripts, maps, pamphlets and periodicals.

(2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of ~~G.S. 143-53.1~~ G.S. 143-53.1, for group purchases made by hospitals through a competitive bidding purchasing program, as defined in ~~G.S. 143-129.~~ G.S. 143-29, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

(d) G.S. 146-22 reads as rewritten:

"**§ 146-22. All acquisitions to be made by Department of Administration.**

Every acquisition of land on behalf of the State or any State agency, whether by purchase, condemnation, lease, or rental, shall be made by the Department of Administration and approved by the Governor and Council of State; provided that if the proposed acquisition is a purchase of land with an appraised value of at least twenty-five thousand dollars ($25,000), and the acquisition is for other than a transportation purpose, the acquisition may only be made after consultation with the Joint Legislative Commission on Governmental ~~Operations.~~ Operations, and provided further, that acquisitions on behalf of the University of North Carolina Health Care System shall be made in accordance with G.S. 116-37(i), acquisitions on behalf of the University of North Carolina Hospitals at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), acquisitions on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill shall be made in accordance with G.S. 116-37(a)(4), and acquisitions on behalf of the Medical Faculty Practice Plan of the East Carolina University School of Medicine shall be made in accordance with G.S. 116-40.6(d). In determining whether the appraised value is at least twenty-five thousand dollars ($25,000), the value of the property in fee simple shall be used. The State may not purchase land as a tenant-in-common without consultation with the Joint Legislative Commission on Governmental Operations if the appraised value of the property in fee simple is at least twenty-five thousand dollars ($25,000)."

(e) G.S. 133-1.1(d) reads as rewritten:

"(d) On projects on which no registered architect or engineer is required pursuant to the provisions of this section, the governing board or awarding authority shall require a certificate of compliance with the State Building Code from the city or county inspector for the specific trade or trades involved or from a registered architect or engineer, except that the provisions of this subsection shall not apply on projects (i) wherein plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction and the State Electrical Inspector, (ii) that are exempt from the State Building Code, ~~or~~ (iii) that are subject to G.S. 116-31.11 and the completed project is inspected by the State Electrical Inspector and by The University of North Carolina or its constituent or affiliated ~~institution.~~ institution, (iv) that are subject to G.S. 116-37(j) and the completed project is inspected by the State Electrical Inspector and by the University of North Carolina Health Care System, (v) that are subject to G.S. 116-37(a)(4) and the completed project is inspected by the State Electrical Inspector and by the University of North Carolina Hospitals at Chapel Hill, (vi) that are subject to G.S. 116-37(a)(4) and the completed project is inspected by the State Electrical Inspector and the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of The University of North Carolina, or (vii) that are subject to G.S. 116-40.6(e) and the completed project is inspected by the State Electrical Inspector and by East Carolina University on behalf of the Medical Faculty Practice Plan."

(f) Chapter 116 of the General Statutes is amended by adding the following new section:

"**§ 116-40.6. East Carolina University Medical Faculty Practice Plan.**

(a) Medical Faculty Practice Plan. – The 'Medical Faculty Practice Plan', a division of the School of Medicine of East Carolina University, operates clinical programs and facilities for the purpose of providing medical care to the general public and training physicians and other health care professionals.

(b) Personnel. – Employees of the Medical Faculty Practice Plan shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the Medical Faculty Practice Plan, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the Board of Trustees of East Carolina University; provided, that with respect to such employees as may be members of the faculty of East Carolina University, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of The University of North Carolina. Such policies and procedures shall be implemented on behalf of the Medical Faculty Practice Plan by a personnel office maintained by East Carolina University.

(1) The board of trustees shall fix or approve the schedules of pay, expense allowances, and other compensation, and adopt position classification plans for employees of the Medical Faculty Practice Plan.

(2) The board of trustees may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay, or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards, and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.

(3) The board of trustees may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the Medical Faculty Practice Plan.

(4) The board of trustees may establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear

employee grievances, or to undertake any other duties relating to personnel administration that the board of trustees may direct.

The board of trustees shall submit all initial classification and pay plans, and other rules and regulations adopted pursuant to subdivisions (1) through (4) of this subsection to the Office of State Personnel for review upon adoption by the board. Any subsequent changes to these plans, rules, and policies adopted by the board shall be submitted to the Office of State Personnel for review. Any comments by the Office of State Personnel shall be submitted to the Chancellor of East Carolina University and the President of The University of North Carolina.

(c) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the Board of Trustees of East Carolina University shall establish policies and regulations governing the purchasing requirements of the Medical Faculty Practice Plan. These policies and regulations shall provide for requests for proposals, competitive bidding, or purchasing by means other than competitive bidding, contract negotiations, and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical and educational missions of the Medical Faculty Practice Plan. Pursuant to such policies and regulations, purchases for the Medical Faculty Practice Plan shall be effected by a purchasing office maintained by East Carolina University. The board of trustees shall submit all initial policies and regulations adopted under this subsection to the Division of Purchase and Contract for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the Division of Purchase and Contract for review. Any comments by the Division of Purchase and Contract shall be submitted to the Chancellor of East Carolina University and to the President of The University of North Carolina.

(d) Property. – Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the board of trustees shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in acquiring or disposing of any interest in real property for the use of the Medical Faculty Practice Plan. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the Medical Faculty Practice Plan. This section does not authorize the board of trustees to encumber real property. Such rules and regulations shall be implemented by a property office maintained by East Carolina University. The board of trustees shall submit all initial rules and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption. Any subsequent changes to these rules and regulations shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chancellor of East Carolina University and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, East Carolina University shall promptly file, on behalf of the Medical Faculty Practice Plan, a report concerning the acquisition or disposition with the Governor and Council of State.

(e) Property – Construction. – Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the board of trustees shall adopt policies and procedures to be implemented by the administration of East Carolina University, with respect to the design, construction, and renovation of buildings, utilities, and other property developments for the use of the Medical Faculty Practice Plan, requiring the expenditure of public money for:

(1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.

(2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).

(3) Using open-end design agreements.

(4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Facility Services of the Department of Health and Human Services.

(5) Using the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

The board of trustees shall submit all initial policies and procedures adopted under this subsection to the Office of State Construction for review upon adoption by the board. Any subsequent changes to these policies and procedures adopted by the board shall be submitted to the Office of State Construction for review. Any comments by the Office of State Construction shall be submitted to the Chancellor of East Carolina University and to the President of The University of North Carolina."

(g) G.S. 96-8(6)k. is amended by adding a new paragraph to read:

"19. Service performed as a resident by an individual who has completed a four-year course in medical school chartered or approved pursuant to State law, provided that the service is performed for and while in the employment of a nonprofit organization created to provide medical services to a targeted socio-economically disadvantaged group within this State."

(h) This section becomes effective November 1, 1998.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

UNC APPLICATIONS POOL

Section 11.9. The Board of Governors of The University of North Carolina shall create a system that provides for the sharing of selected applications for admissions from North Carolina residents among the constituent institutions. The intent of the system shall be to increase the number of qualified North Carolina high school graduates who participate in higher education by providing information about applicants to other schools as well as providing information to applicants about alternative higher education opportunities in North Carolina. The Board of Governors may cooperate with the State Board of Community Colleges and with the private colleges and universities in North Carolina in creating such a system.

The Board of Governors shall report on its progress in developing such a system to the Joint Legislative Education Oversight Committee by January 15, 1999.

Requested by: Senators Lee, Winner, Plyler, Representatives Arnold, Grady, Preston

PRIVATE COLLEGES/INCENTIVE FUNDS

Section 11.10. G.S. 116-20 reads as rewritten:

"**§ 116-20. Scholarship and contract terms; base period.**

In order to encourage and assist private institutions to educate additional numbers of North Carolinians, the Board of Governors of the University of North Carolina is hereby authorized to enter into contracts within the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the Board of Governors of the University of North Carolina would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student enrolled as of October 1 of any year for which appropriated funds may be available, over and above the number of North Carolina students enrolled in that institution as of October 1, ~~1970,~~ 1997, which shall be the base date for the purpose of this calculation. Funds appropriated pursuant to this section shall be paid by the ~~Department of Administration~~ State Education Assistance Authority to an institution upon recommendation of the Board of Governors of the University of North Carolina and on certification of the institution showing the number of North Carolina students enrolled at the institution as of October 1 of any year for which funds may be appropriated over the number enrolled on the base date. In the event funds are appropriated for expenditure pursuant to this section and funds are also appropriated, for the same fiscal year, for expenditure pursuant to G.S. 116-19, students who are enrolled at an institution in excess of the number enrolled on the base date may be counted under this section for the purpose of calculating the amount to be paid to the institution, but the same students may ~~not~~ also be counted under G.S. 116-19, for the purpose of calculating payment to be made under that section."

Requested by: Senators Lee, Winner, Perdue, Odom, Plyler, Representatives Arnold, Grady, Preston, Oldham

SUSTAINABLE OYSTER AQUACULTURE STUDY

Section 11.11. (a) Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for fiscal year 1998-99, the sum of two hundred thousand dollars ($200,000) shall be allocated to the Institute of Marine Sciences at the University of North Carolina at Chapel Hill to study the potential for sustainable oyster aquaculture of triploid Crassostrea sikamea (Kumamoto), triploid Crassostrea ariakensis (Suminoe), triploid Crassostrea gigas (Pacific), and triploid Ostrea edulis (European flat). Testing shall be carried out under a variety of environmental conditions, including, but not limited to, the evaluation of oyster growth

of each type of oyster in polluted waters and the ability of each type of oyster to purify polluted waters.

(b) The Primary Investigator or Researcher receiving funding pursuant to subsection (a) of this section shall provide progress reports to the Joint Legislative Commission on Seafood and Aquaculture, the Environmental Review Commission, the Marine Fisheries Commission, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report of its findings and recommendations to the above entities.

Requested by: Representatives Arnold, Grady, Preston, Oldham, Senators Lee, Winner, Dalton, Purcell

ALIGN UNC PROFESSIONAL DEVELOPMENT PROGRAMS

Section 11.12. (a) G.S. 116-11 is amended by adding a new subdivision to read:

"(12b) The Board of Governors of The University of North Carolina shall create a Board of Directors for the UNC Center for School Leadership Development. The Board of Governors shall determine the powers and duties of the Board of Directors."

(b) The Board of Governors of The University of North Carolina shall further study and recommend to the Joint Legislative Education Oversight Committee, by December 15, 1998, any statutory or other organizational changes to assure oversight and coordination of program components of the UNC Center for School Leadership Development, including whether or not there are reasons that existing boards of these professional development programs should not be made advisory to the Board of Directors of the UNC Center for School Leadership Development.

(c) The Model Teacher Consortium funded in the Department of Public Instruction and its related budget, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Model Teacher Consortium are transferred from the Department of Public Instruction to the Board of Governors of The University of North Carolina effective January 1, 1999. The Board of Governors shall coordinate the program within the UNC Center for School Leadership Development.

Requested by: Senators Lee, Winner, Dalton, Purcell, Perdue, Representatives Arnold, Grady, Preston, Oldham,

INCREASE THE NUMBER OF SCHOOL ADMINISTRATOR PROGRAMS THAT MAY BE ESTABLISHED BY UNC BOARD OF GOVERNORS

Section 11.13. (a) G.S. 116-74.21(b) reads as rewritten:

"(b) No more than ~~eight~~ nine school administrator programs shall be established under the competitive proposal program. In selecting campus sites, the Board of Governors shall be sensitive to the racial, cultural, and geographic diversity of the State. Special priority shall be given to the following factors: (i) the historical background of the institutions in training educators; (ii) the ability of the sites to serve the geographic

regions of the State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii) whether the type of roads and terrain in a region make commuting difficult. A school administrator program may provide for instruction at one or more campus sites."

(b) The Board of Governors of The University of North Carolina shall include the Master of School Administration program at North Carolina State University in Raleigh as one of the nine school administrator programs established pursuant to G.S. 116-74.21. In providing this program, North Carolina State University shall cooperate with North Carolina Central University and the University of North Carolina at Chapel Hill through the use of distance education methodologies and sharing of faculty expertise.

Requested by: Senators Winner, Lee, Dalton, Purcell, Representatives Arnold, Preston, Oldham

UNC TECHNOLOGY INITIATIVE

Section 11.14. The Board of Governors of The University of North Carolina shall allocate one million dollars ($1,000,000) for the "Learn NC" Initiative at the University of North Carolina at Chapel Hill from funds appropriated in this act for technology.

Requested by: Representative Creech

FOREST BIOTECHNOLOGY/NCSU FUNDS

Section 11.15. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of one hundred two thousand seven hundred seventy dollars ($102,770) for the 1998-99 fiscal year shall be allocated to the Forest Biotechnology Group at North Carolina State University for faculty or technical positions and operating funds.

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

STANDARDS FOR HEALTH CARE QUALITY AND ACCESS/EXTEND REPORTING DATE

Section 12. Section 11.5(a) of S.L. 1997-443 reads as rewritten:

"(a) The Secretary of the Department of Health and Human ~~Resources~~ Services shall prepare proposed standards to ensure that the citizens of the State have access to quality and affordable health care with special emphasis on health care for children. The proposed standards shall be presented to the General Assembly on or before ~~April 1, 1998.~~ May 1, 1999."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

HOSPITAL FACILITY AUDITED COST REPORT DUE DATE

Section 12.1A. G.S. 131D-4.2(e) reads as rewritten:

"(e) ~~The first audited cost report shall be for the period from January 1, 1995, through September 30, 1995, and shall be due March 1, 1996. Thereafter, the~~ Except as otherwise provided in this subsection, the annual reporting period for facilities licensed pursuant to this Chapter or Chapter 131E of the General Statutes shall be October 1 through September 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. The annual report for combination facilities and free-standing adult care home facilities owned and operated by a hospital shall be due 15 days after the hospital's Medicare cost report is due. The annual report for combination facilities not owned and operated by a hospital shall be due 15 days after the nursing facility's Medicaid cost report is due. The annual reporting period for facilities licensed pursuant to Chapter 122C of the General Statutes shall be July 1 through June 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. Under this subsection, good cause is an action that is uncontrollable by the provider. If the Department finds good cause for delay, it may extend the deadline for filing a report for up to an additional 30 days."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

OFFICE OF STRATEGIC PLANNING

Section 12.2. It is the intent of the General Assembly that the Department of Health and Human Services provide coordinated and strategic planning for the State's health and human services. The Department shall study the advisability of creating an Office of Strategic Planning in the Office of the Secretary of Health and Human Services. The Director of the Office of Strategic Planning would report directly to the Secretary and would have the following responsibilities:

(1) Implementing ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department;

(2) Improving program functioning and performance within the agency, across agency lines, and with non-State agencies; and

(3) Reviewing, disseminating, monitoring, and evaluating best practice models.

The Department shall report its findings and recommendations, which shall include the advantages and disadvantages of creating an Office of Strategic Planning and projected costs of implementation. The report shall be made to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and shall be submitted not later than March 15, 1999.

Requested by: Senator Martin of Guilford, Representative Gardner

MODIFY SETOFF DEBT COLLECTION PROCEDURE

Section 12.3A. (a) G.S. 105A-3(b) reads as rewritten:

"(b) (Effective until January 1, 2000) All claimant agencies shall submit, for collection under the procedure established by this Article, all debts which they are owed, except debts ~~that they are advised by the Attorney General not to submit because~~ for which the agency determines that the validity of the debt is legitimately in dispute, ~~because~~ an alternative means of collection is pending and believed to be adequate, or ~~because~~ such a collection attempt would result in a loss of federal funds."

(b) G.S. 105A-3(b) reads as rewritten:

"(b) (Effective January 1, 2000) Mandatory State Usage. – A State agency must submit a debt owed to it for collection under this Chapter unless the State Controller has waived this requirement or the ~~Attorney General has advised the State agency not to submit the debt because~~ State agency has determined that the validity of the debt is legitimately in dispute, ~~because~~ an alternative means of collection is pending and believed to be adequate, or ~~because~~ such a collection attempt would result in a loss of federal funds. The State Controller may waive the requirement for a State agency, other than the Department of Health and Human Services or a county acting on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the State Controller finds that collection by this means would not be practical or cost effective. A waiver may apply to all debts owed a State agency or a type of debt owed a State agency."

(c) The State Controller, in consultation with the Attorney General, shall develop guidelines for State agencies to use in determining under G.S. 105A-3(b) when the validity of a debt is legitimately in dispute, when an alternative means of collection may be considered adequate, and when a collection attempt would result in a loss of federal funds.

(d) Subsection (b) of this section becomes effective January 1, 2000. The remainder of this section is effective when it becomes law. Subsection (a) of this section expires January 1, 2000.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Nye, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Plyler, Perdue, Odom

NORTH CAROLINA BOARD OF PHARMACY/WAIVER FOR DISASTERS AND EMERGENCIES/RULES PERTAINING TO MAIL DELIVERY OF DISPENSED LEGEND DRUGS

Section 12.3B. (a) G.S. 90-85.25 reads as rewritten:

"**§ 90-85.25. ~~Disaster reports.~~ Disasters and emergencies.**

(a) In the event of an occurrence which the Governor of the State of North Carolina has declared a disaster or when the Governor has declared a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety, or welfare of its citizens under G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of drugs, devices, and professional services to the public.

(b) The pharmacist in charge of a pharmacy shall report within 10 days to the Board any disaster, accident, theft, or emergency which may affect the strength, purity, or labeling of drugs and devices in the pharmacy."

(b) G.S. 90-85.21A reads as rewritten:

"**§ 90-85.21A. Applicability to out-of-state operations.**

(a) Any pharmacy operating outside the State which ships, mails, or delivers in any manner a dispensed legend drug into this State shall annually register with the Board on a form provided by the Board.

(b) Any pharmacy subject to this section shall at all times maintain a valid unexpired license, permit, or registration necessary to conduct such pharmacy in compliance with the laws of the state in which such pharmacy is located. No pharmacy operating outside the State may ship, mail, or deliver in any manner a dispensed legend drug into this State unless such drug is lawfully dispensed by a licensed pharmacist in the state where the pharmacy is located.

(c) The Board shall be entitled to charge and collect not more than two hundred fifty dollars ($250.00) for original registration of a pharmacy under this section, and for renewal thereof, not more than one hundred twenty-five dollars ($125.00).

(d) The Board may deny a nonresident pharmacy registration upon a determination that the pharmacy has a record of being formally disciplined in its home state for violations that relate to the compounding or dispensing of legend drugs and presents a threat to the public health and safety.

(e) Except as otherwise provided in this subsection, ~~The~~ the Board may adopt rules to protect the public health and safety that are ~~needed~~ necessary to implement this section. Notwithstanding G.S. 90-85.6, the Board shall not adopt rules pertaining to the shipment, mailing, or other manner of delivery of dispensed legend drugs by pharmacies required to register under this section that are more restrictive than federal statutes or regulations governing the delivery of prescription medications by mail or common carrier. A pharmacy required to register under this section shall comply with ~~these rules.~~ rules adopted pursuant to this section.

(f) The Board may deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with any requirement of this section."

(c) G.S. 90-85.32 reads as rewritten:

"**§ 90-85.32. ~~Filling and refilling regulations.~~ Rules pertaining to filling, refilling, transfer, and mail or common-carrier delivery of prescription orders.**

(a) ~~The~~ Except as otherwise provided in this section, the Board may ~~promulgate~~ adopt rules governing the filling, refilling and transfer of prescription orders not inconsistent with other provisions of law regarding the distribution of drugs and devices. ~~Such regulations~~ The rules shall assure the safe and secure distribution of drugs and devices. Prescriptions marked PRN shall not be refilled more than one year after the date issued by the prescriber unless otherwise specified.

(b) Notwithstanding G.S. 90-85.6, the Board shall not adopt rules pertaining to the shipment, mailing, or other manner of delivery of dispensed legend drugs that are more restrictive than federal statutes or regulations governing the delivery of prescription medications by mail or common carrier."

(d) This section is effective when this act becomes law.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

COLLABORATIVE EFFORT TO IMPROVE QUALITY OF ACADEMIC PROGRAMS AT RESIDENTIAL SCHOOLS/PROGRAM REVIEW OF DISABILITY SERVICES

Section 12.3C. (a) The Department of Health and Human Services, the State Board of Education, and the superintendents or their designees of the Burke, Guilford, Wake, and Wilson local education agencies shall work together to develop and implement strategies for strengthening the relationship between the agencies and the Governor Morehead School and the three residential schools for the deaf over the next five years. The goal of this collaborative effort is to improve the quality of the academic programs at the residential schools and to utilize more fully and effectively the unique resources and expertise available on these residential campuses to the benefit of visually impaired and hearing-impaired students statewide. This collaborative effort shall identify, at a minimum, the following:

(1) Strategies for assisting in the implementation of the Standard Course of Study and the ABCs Program on the residential campuses;

(2) Opportunities for collaboration and sharing of resources in other areas such as staff development, student exchange, transportation, and use of technology;

(3) The best and most feasible ways to assure responsible management and operation of the academic programs on the residential campuses, including the option of transferring direct responsibility for managing these programs to the local education agencies; and

(4) The best and most feasible ways to assure responsible management and operation of the Department's preschool programs, including the option of transferring direct responsibility for managing the preschool programs to the local education agencies.

The Department of Health and Human Services, the State Board of Education, and the designated representatives of the Burke, Guilford, Wake, and Wilson local education agencies shall submit a joint report to the Joint Legislative Education Oversight Committee, the House of Representatives Appropriations Subcommittee on Human Resources, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division on the results of the effort required under this section. The report shall be submitted no later than April 1, 1999.

(b) The Department of Health and Human Services shall conduct a comprehensive review of the policies, programs, and services managed by the Divisions of Vocational Rehabilitation, Services for the Blind, and Services for the Deaf and Hard of Hearing, and shall recommend organizational changes to improve the Department's effectiveness in serving citizens with disabilities. As part of this review, the Department shall evaluate the feasibility of integrating adult services into a single Division of Disability Services and creating the position of Superintendent within the

Department to manage the Governor Morehead School, the residential schools for the deaf, and related early intervention services.

Any proposal of reorganization by the Department shall address the following:

(1) Ensuring the visibility and integrity of specialized services to visually impaired and deaf and hard-of-hearing adults;

(2) Providing a mechanism for advocates and consumers of disability services to advise the Department on policy related to service delivery; and

(3) Establishing procedures for addressing client complaints concerning services provided by the Department.

The Secretary shall report the results and recommendations of this review to the members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources, not later than April 1, 1999.

(c) Section 2 of S.L. 1998-131 reads as rewritten:

"Section 2. Effective March 1, 1998, the Secretary of Health and Human Services also shall make changes in the administrative organization of the Department of Health and Human Services and of the Governor Morehead School and the three schools for the deaf with a view to (i) improving student academic performance in the residential schools, (ii) promoting economy and efficiency in government in the interest of producing cost savings that can be used to redirect funds to the residential schools for teaching, textbooks, school supplies, technology, equipment, and staff development, and (iii) increasing school-based decision making and parental involvement. The Secretary may, in his discretion, extend this section to additional residential programs. The Secretary shall make necessary changes in the mission of the residential schools and of the Department of Health and Human Services as it pertains to the residential schools. The Secretary shall develop a plan for reducing, eliminating, and/or reorganizing the Department of Health and Human Services and each residential school. A reorganization may include the assignment or reassignment of the Department's duties and functions among divisions and other units, division heads, officers, and employees.

The proposed reduction, elimination, and/or reorganization of the Department shall have a goal of resulting in a decrease of at least fifty percent (50%) in the number of employee positions currently assigned to the Division of Services for the Blind and the Division of Services for the Deaf and Hard of Hearing for the purpose of providing assistance to, management of, or education programs in the residential schools, and a redirection to the instructional programs in the residential schools by January 1, 1999, of at least fifty percent (50%) in the Department's budget that currently is maintained by the Department to administer the residential schools and their programs. The proposed reduction, elimination, and/or reorganization of the residential schools shall have a goal of resulting in a decrease of at least fifty percent (50%) in the number of employee positions currently filled by administrators or supervisors.

The Secretary shall report to the ~~Legislative Commission on Public Schools and to the~~ cochairs of the Appropriations ~~Subcommittee~~ Subcommittees on Education and

Health and Human Services of the Senate and the House of Representatives by ~~December 15, 1998,~~ April 15, 1999, on the reduction, elimination, and/or reorganization plan it develops."

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

AREA MENTAL HEALTH/ELDERLY HOUSING NONRECURRING PROJECT FUNDS

Section 12.4. (a) Notwithstanding G.S. 143-15.3C, of the funds in the Work First Reserve Fund, the sum of five hundred thousand dollars ($500,000) shall be appropriated pursuant to G.S. 108A-27.16 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 1998-99 fiscal year for Developmental Disabilities Services for wait list management.

(b) Notwithstanding G.S. 143-15.3C, of the funds in the Work First Reserve Fund, the sum of two million dollars ($2,000,000) is appropriated to the Housing Trust Fund for affordable housing for the elderly.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Russell, G. Wilson

FUNDS FOR CAPITAL IMPROVEMENTS/SHELTERED WORKSHOPS

Section 12.4A. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year shall be used to provide grants-in-aid for capital improvements at sheltered workshop facilities. The Department shall develop guidelines for awarding grants. Grant awards shall be based on greatest need and shall not exceed fifty thousand dollars ($50,000) per grant recipient.

SUBPART 2. MEDICAL ASSISTANCE

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MEDICAID GROWTH REDUCTION

Section 12.5. Section 11.10 of S.L. 1997-443 reads as rewritten:

"Section 11.10. (a) The Department of ~~Human Resources~~ Health and Human Services shall develop and implement a plan that is designed to reduce the growth of Medicaid to eight percent (8%) by the year 2001. However, the Department shall not eliminate categories of eligibles or categories of services to achieve this reduction unless the General Assembly identifies specific categories of eligibles or categories of services that it wants eliminated.

(b) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall consider the following actions in developing the plan to reduce Medicaid growth:

(1) Changes in the methods of reimbursement;

(2) Changes in the method of determining or limiting inflation factors or both;
(3) Recalibration of existing methods of reimbursement;
(4) Develop more specific criteria for determining medical necessity of services;
(5) Contracting for services;
(6) Application of limits on specific numbers of slots or expenditure levels for certain services or both;
(7) Expansion of managed care; and
(8) Recommend changes in statutes to enhance the ability of the Department to manage the program.

(c) In considering the actions listed in subsection (b) of this section and in the development of the Medicaid growth reduction plan, the Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall not adjust reimbursement rates to levels which would cause Medicaid providers of service to be out of compliance with certification requirements, licensure rules, or other mandated quality or safety standards.

(d) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, may make periodic progress reports to the ~~Chairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and shall make a final report no later than September 1, 1997, on any actions the Department intends to take to meet the required reductions for 1998-99. The Division of Medical Assistance shall not implement any of these actions until after the intended actions have been reported to the ~~Chairs.~~ members.

(e) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall report to the ~~Chairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by ~~April 1, 1998,~~ February 1, 1999, on the final plan to reduce Medicaid growth to eight percent (8%) by the year 2001."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

RULES GOVERNING TRANSFER OF MEDICAID BENEFITS BETWEEN COUNTIES

Section 12.6. Chapter 108A of the General Statutes is amended by inserting a new section to read:

"**§ 108A-57.1. Rules governing transfer of medical assistance benefits between counties.**

Any recipient of medical assistance who moves from one county to another county of this State shall continue to receive medical assistance if eligible. The county director of social services of the county from which the recipient has moved shall transfer all necessary records relating to the recipient to the county director of social services of the

county to which the recipient has moved. The county from which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for services provided to the recipient during the month following the recipient's move. Thereafter, the county to which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for the services provided to the recipient."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CONTINUOUS MEDICAID COVERAGE FOR CATEGORICALLY NEEDY FAMILIES WITH CHILDREN

Section 12.7. (a) Section 11.11 of S.L. 1997-443 is amended by inserting a new subsection to read:

"(n1) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets."

(b) The Department of Health and Human Services shall study the effect of this section on both the Medicaid Program and the Health Insurance Program for Children. The Department shall make an interim report on the results of this study to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by October 1, 1999, and shall make a final report by January 1, 2000.

(c) Subsection (a) of this section becomes effective 90 days after this act becomes law.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ALLOCATION OF G.S. 143-23.2 MEDICAID FUNDS

Section 12.8. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, thirteen million dollars ($13,000,000) shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the thirteen million dollar ($13,000,000) reduction in general revenue funding effected in this act.

Requested by: Senator Martin of Guilford, Representatives Cansler, Clary

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CHANGE

Section 12.10. (a) Disproportionate share receipts reserved at the end of the 1997-98 fiscal year shall be deposited with the Department of State Treasurer as a nontax revenue for the 1998-99 fiscal year.

(b) For the 1998-99 fiscal year, as it receives funds associated with Disproportionate Share Payments from the State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to eighty-five million dollars ($85,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenues. Any Disproportionate Share Payments collected in excess of the eighty-five million dollars ($85,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary

CHILD HEALTH INSURANCE STUDY/OTHER CHANGES

Section 12.12. (a) The Department of Health and Human Services shall conduct a study to identify Department programs where savings in State funds could be realized because some or all of the services provided by the programs are now provided under the Health Insurance Program for Children. The Department shall report its findings to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 1, 1999.

(b) The Office of State Budget and Management shall examine the expenditures and services of State agencies other than the Department of Health and Human Services to determine whether the expenditures and services could be covered under the State Health Insurance Program for Children. The study shall also examine services provided by non-State agencies and funded in whole or in part with State funds. The Office of State Budget and Management shall report its findings to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 1, 1999.

(c) G.S. 143-682, as enacted by Section 3 of S.L. 1998-1 Extra Session, reads as rewritten:

"**§ 143-682. Commission established.**

(a) There is established the Commission on Children With Special Health Care Needs. The Department of Health and Human Services shall provide staff services and space for Commission meetings. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to special needs children in this State, and to monitor and evaluate services provided to special needs children under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

(b) The Commission shall consist of ~~seven~~ eight members appointed by the Governor, as follows:

(1) ~~A parent of a special needs child;~~ Two parents, not of the same family, each of whom has a special needs child. In appointing parents, the Governor shall consider appointing one parent of a child with chronic illness and one parent of a child with a developmental disability or behavioral disorder.

(2) A licensed psychiatrist recommended by the North Carolina Psychiatric Association;

(3) A licensed psychologist recommended by the North Carolina Psychological Association;

(4) A licensed pediatrician whose practice includes services for special needs children, recommended by the Pediatric Society of North Carolina;

(5) A representative of one of the children's hospitals in the State, recommended by the Pediatric Society of North Carolina;

(6) A local public health director recommended by the Association of Local Health Directors; and

(7) An educator providing education services to special needs children, recommended by the North Carolina Council of Administrators of Special Education.

(c) The Governor shall appoint from among Commission members the person who shall serve as chair of the Commission. Of the initial appointments, two shall serve one-year terms, ~~two~~ three shall serve two-year terms, and three shall serve three-year terms. Thereafter, terms shall be for two years. Vacancies occurring before expiration of a term shall be filled from the same appointment category in accordance with subsection (b) of this section."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

MEDICAID/REPORTING ANTICIPATED CHANGES

Section 12.12B. (a) Section 11.11 of S.L. 1997-443 reads as rewritten:

"Section 11.11. (a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

(1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of ~~Human Resources.~~ Health and Human Services. Administrative days for any period of hospitalization shall be limited to a maximum of three days.

(2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of ~~Human Resources.~~ Health and Human Services.

(3) Nursing Facilities - Payment for nursing facility services will be prescribed in the State Plan as established by the Department of ~~Human Resources.~~ Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.

(4) Intermediate Care Facilities for the Mentally Retarded - As prescribed in the State Plan as established by the Department of ~~Human Resources.~~ Health and Human Services.

(5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of ~~Human Resources~~ Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of ~~Human Resources,~~ Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services - Fee schedules as developed by the Department of ~~Human Resources.~~ Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.

(7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of ~~Human Resources.~~ Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment - Payment to be made according to reimbursement plans developed by the Department of ~~Human Resources.~~ Health and Human Services.

(9) Medicare Buy-In - Social Security Administration premium.

(10) Ambulance Services - Uniform fee schedules as developed by the Department of ~~Human Resources.~~ Health and Human Services.

(11) Hearing Aids - Actual cost plus a dispensing fee.

(12) Rural Health Clinic Services - Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.

(14) Independent Laboratory and X-Ray Services - Uniform fee schedules as developed by the Department of ~~Human Resources.~~ Health and Human Services.

(15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.

(16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of ~~Human Resources.~~ Health and Human Services.

(17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of ~~Human Resources.~~ Health and Human Services.

(18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of ~~Human Resources.~~ Health and Human Services.

(19) Personal Care Services - Payment in accordance with the State Plan approved by the Department of ~~Human Resources.~~ Health and Human Services.

(20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of ~~Human Resources.~~ Health and Human Services.

(21) Hospice - Services may be provided in accordance with the State Plan developed by the Department of ~~Human Resources.~~ Health and Human Services.

(22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited to agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of ~~Human Resources~~ Health and Human Services not to exceed the upper limits established in federal regulations.

(23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with the State Plan approved by the Department of ~~Human Resources.~~ Health and Human Services.

(24) Health Insurance Premiums - Payments to be made in accordance with the State Plan adopted by the Department of ~~Human Resources~~ Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care - Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of ~~Human Resources. Providers~~ Health and Human Services. Except for related services in schools, providers of these services shall be certified as meeting program standards of the ~~Department of Environment, Health, and Natural Resources.~~ Department of Health and Human Services, Division of Women's and Children's Health.

(26) Pregnancy Related Services - Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, and emergency rooms are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of ~~Human Resources~~ Health and Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-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~~ Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

(d) Medicaid and ~~Aid to Families With Dependent Children~~ Work First Family Assistance, Income Eligibility Standards. The maximum net family annual income eligibility standards for Medicaid and ~~Aid to Families with Dependent Children,~~ Work First Family Assistance and the Standard of Need for ~~Aid to Families with Dependent Children~~ Work First Family Assistance shall be as follows:

Categorically Needy		Medically Needy	
Family Size	Standard of Need	AFDC Payment Level*	AA, AB, AD*
1	$ 4,344	$ 2,172	$ 2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*~~Aid to Families With Dependent Children (AFDC);~~ Work First Family Assistance (WFFA); 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~~ Work First Family Assistance 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~~ Health and Human Services 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.

(g) Dental Coverage Limits. Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

(h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in the prescriber's own handwriting on the prescription order, 'dispense as written' or words of similar meaning. Generic drugs, when available in the pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs, subject to the prescriber's 'dispense as written' order as noted above.

As used in this subsection 'brand name' means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and 'established name' has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of ~~Human Resources,~~ Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(j) Volume Purchase Plans and Single Source Procurement. The Department of ~~Human Resources,~~ Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other similar processes in order to improve cost containment.

(k) Cost Containment Programs. The Department of ~~Human Resources,~~ Health and Human Services, Division of Medical Assistance, may undertake cost containment

programs including preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

(m) The Department of ~~Human Resources~~ Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year olds in accordance with federal rules and regulations.

(n) The Department of ~~Human Resources~~ Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

(1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(5) The Department of ~~Human Resources~~ Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

(o) The Department of Human Resources may use Medicaid funds budgeted from program services to support the cost of administrative activities to the extent that these administrative activities produce a net savings in services requirements. Administrative initiatives funded by this section shall be first approved by the Office of State Budget and Management. At the time the Department requests approval from the Office of State Budget and Management, the Department shall report to the Fiscal Research Division and to the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources that it has made the request for approval and shall include in the report information it has provided in its request for approval.

(p) The Department of ~~Human Resources~~ Health and Human Services shall submit a monthly status report on expenditures for acute care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the month.

(q) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(r) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing.

(s) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, may administer Medicaid estate recovery mandated by the Omnibus Budget Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5 using temporary rules pending approval of final rules promulgated pursuant to Chapter 150B of the General Statutes.

(t) The Department of ~~Human Resources~~ Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that ~~such~~ these rules are necessary to maximize receipt of federal funds, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

(u) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources or the Joint Legislative Commission on Health Care Oversight on any change it anticipates making in the Medicaid Program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Health Care Financing Administration. The reports shall be provided prior to the effective date of any change required to be reported.

(v) If the Department of Health and Human Services obtains a Medicaid waiver to implement two long-term care pilot projects, then the Department shall report the particulars of the waiver, the pilot projects, and the status of implementation to members of the House of Representatives Appropriations Subcommittee on Human Resources, the Senate Appropriations Committee on Human Resources, and the Study Commission on Aging within 30 days of receiving the waiver. The Department shall

not expand the pilot project beyond the two initial pilots without first reporting the proposed expansion to the members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources."

(b) The Department of Health and Human Services shall study the effect of subsection (n1) of Section 11.11 of S.L. 1997-443 on both the Medicaid Program and the Health Insurance Program for Children. The Department shall make an interim report on the results of this study to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by October 1, 1999, and shall make a final report by January 1, 2000.

(c) G.S. 108A-55(c) reads as rewritten:

"(c) The Department shall reimburse providers of services, equipment, or supplies under the Medical Assistance Program in the following amounts:

(1) The amount approved by the Health Care Financing Administration of the United States Department of Health and Human Services, if that Administration approves an exact reimbursement amount;

(2) The amount determined by application of a method approved by the Health Care Financing Administration of the United States Department of Health and Human Services, if that Administration approves the method by which a reimbursement amount is determined, and not the exact amount.

The Department shall establish the methods by which reimbursement amounts are determined in accordance with Chapter 150B of the General Statutes. A change in a reimbursement amount becomes effective as of the date for which the change is approved by the Health Care Financing Administration of the United States Department of Health and Human Services. The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources or the Joint Legislative Commission on Health Care Oversight on any change in a reimbursement amount at the same time as it sends out public notice of this change prior to presentation to the Health Care Financing Administration."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

PARTICIPATION IN MEDICAID DENTAL PROGRAM

Section 12.12C. It is the goal of the General Assembly to substantially increase the level of participation of dentists in the Medicaid dental program and to improve the Medicaid program's provision of preventive services to Medicaid patients while ensuring program integrity and accountability. To this end, the Department of Health and Human Services shall evaluate and recommend strategies for:

(1) Assisting dentists in increasing the number of their Medicaid patients;

(2) Increasing Medicaid patients' access to quality dental services;

(3) Informing dental professionals on how to better integrate Medicaid patients into their practice; and

(4) Expanding the capacity of local health departments and community health centers to provide properly diagnosed and supervised preventive dental services such as sealant, fluoride, and basic hygiene treatments.

The Department of Health and Human Services shall report to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources on its progress and recommendations and on any related results of increasing the Medicaid reimbursement rate by April 30, 1999.

The Department of Health and Human Services, in consultation with the North Carolina Dental Society, shall study existing laws and rules and propose changes that will improve the opportunity for quality dental treatment for Medicaid and other patients. The Department shall report the results of this study, including recommended changes to laws or rules, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than April 30, 1999.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Holmes, Esposito, Creech, Crawford, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Plyler, Perdue, Odom

MEDICAID COVERAGE FOR ELDERLY AND DISABLED PEOPLE

Section 12.12D. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1. Coverage authorized under this section shall become effective no earlier than January 1, 1999.

Requested by: Representative Cansler

STUDY OF NEED TO INCREASE PHYSICIAN PAY RATE

Section 12.13. The Joint Legislative Commission on Health Care Oversight shall study the need to increase the rate paid to physicians under the Medicaid program to an amount no greater than the rate paid to physicians under the Medicare program. The Commission shall also identify, from funds available to the Medicaid Program, adequate resources for any proposed increase. The Commission shall report the results of its study to the 1999 General Assembly.

SUBPART 3. FACILITY SERVICES

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

TRANSFER OF CHARITABLE SOLICITATION PROGRAM TO THE SECRETARY OF STATE

Section 12.14. (a) All functions, powers, duties, and obligations previously vested in the Department of Health and Human Services under Chapter 131F of the

General Statutes are transferred to and vested in the Department of the Secretary of State as if by a Type I transfer defined in G.S. 143A-6. All statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of the program transferred pursuant to this section shall be transferred in their entirety.

(b) G.S. 131F-2(7) reads as rewritten:

"(7) 'Department' means the Department of ~~Health and Human Services.~~ the Secretary of State."

(c) G.S. 147-36 reads as rewritten:

"**§ 147-36. Duties of Secretary of State.**

It is the duty of the Secretary of State:

(1) To perform such duties as may then be devolved upon ~~him~~ the Secretary by resolution of the two houses of the General Assembly or either of them;

(2) To attend the Governor, whenever required by ~~him,~~ the Governor, for the purpose of receiving documents which have passed the great seal;

(3) To receive and keep all conveyances and mortgages belonging to the State;

(4) To distribute annually the statutes and the legislative journals;

(5) To distribute the acts of Congress received at ~~his~~ the Secretary's office in the manner prescribed for the statutes of the State;

(6) To keep a receipt book, in which ~~he~~ the Secretary shall take from every person to whom a grant shall be delivered, a receipt for the same; but ~~he~~ may inclose grants by mail in a registered letter at the expense of the grantee, unless otherwise directed, first entering the same upon the receipt book;

(7) To issue charters and all necessary certificates for the incorporation, domestication, suspension, reinstatement, cancellation and dissolution of corporations as may be required by the corporation laws of the State and maintain a record thereof;

(8) To issue certificates of registration of trademarks, labels and designs as may be required by law and maintain a record thereof;

(9) To maintain a Division of Publications to compile data on the State's several governmental agencies and for legislative reference;

(10) To receive, enroll and safely preserve the Constitution of the State and all amendments thereto;

(11) To serve as a member of such boards and commissions as the Constitution and laws of the State may designate;

(12) To administer the Securities Law of the State, regulating the issuance and sale of securities, as is now or may be directed;

(13) To receive and keep all oaths of public officials required by law to be filed in ~~his~~ the Secretary's office, and as Secretary of State, ~~he~~ is fully empowered to administer official oaths to any public official of whom an oath is required; ~~and~~

(14) To receive and maintain a journal of all appointments made to any State board, agency, commission, council or authority which is filed in the office of the Secretary of ~~State.~~ State; and

(15) To regulate the solicitation of contributions pursuant to Chapter 131F of the General Statutes."

(d) This section becomes effective January 1, 1999.

Requested by: Representatives Gardner, Cansler, Clary, Senator Martin of Guilford

ADULT CARE HOME STAFFING RATIO CHANGES/REIMBURSEMENT RATE INCREASE/STAFFING GRANTS

Section 12.16B. (a) Effective January 1, 1999, G.S. 131D-4.3 reads as rewritten:

"**§ 131D-4.3. Adult care home rules.**

(a) Pursuant to G.S. 143B-153, the Social Services Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by adult care homes:

(1) Client assessment and independent case management;

(2) A minimum of 75 hours of training for personal care aides performing heavy care tasks and a minimum of 40 hours of training for all personal care aides. The training for aides providing heavy care tasks shall be comparable to State-approved Certified Nurse Aide I training. For those aides meeting the 40-hour requirement, at least 20 hours shall be classroom training to include at a minimum:

a. Basic nursing skills;

b. Personal care skills;

c. Cognitive, behavioral, and social care;

d. Basic restorative services; and

e. Residents' rights.

A minimum of 20 hours of training shall be provided for aides in family care homes that do not have heavy care residents. Persons who either pass a competency examination developed by the Department of Health and Human Services, have been employed as personal care aides for a period of time as established by the Department, or meet minimum requirements of a combination of training, testing, and experience as established by the Department shall be exempt from the training requirements of this subdivision;

(3) Monitoring and supervision of residents; ~~and~~

(4) Oversight and quality of care as stated in ~~G.S. 131D-4.1.~~ G.S. 131D-4.1; and

(5) Adult care homes shall comply with all of the following staffing requirements:

a. First shift (morning): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty

per each 20 residents (licensed capacity or resident census) plus 3.0 hours for all other residents, whichever is greater;

b. Second shift (afternoon): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents plus 3.0 hours for all other residents (licensed capacity or resident census), whichever is greater;

c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census).

In addition to these requirements, the facility shall provide staff to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this subdivision, the term 'heavy care resident' means an individual residing in an adult care home who is defined 'heavy care' by Medicaid and for which the facility is receiving enhanced Medicaid payments for such needs.

(b) Rules to implement this section shall be adopted as emergency rules in accordance with Chapter 150B of the General Statutes. ~~These rules shall be in effect no later than January 1, 1996.~~

(c) The Department may suspend or revoke a facility's license, subject to the provisions of Chapter 150B, to enforce compliance by a facility with this section or to punish noncompliance."

(b) Section 11.70(d) of S.L. 1997-443 reads as rewritten:

"(d) Effective ~~July 1, 1998,~~ October 1, 1998, the maximum monthly rate for residents in adult care home facilities shall be nine hundred ~~fifteen~~ fifty-six dollars ~~($915.00)~~ ($956.00) per month per resident."

(c) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year shall be used by the Department for staffing grants for adult care homes as authorized under this subsection. These funds shall be matched equally by county funds. Effective January 1, 1999, grants shall be awarded to those adult care homes that are required to add staff or that have added staff in order to comply with the increase in third shift staffing requirements under G.S. 131D-4.3(a)(5), from eight hours of aide duty per 50 or fewer residents to eight hours of aide duty per 30 or fewer residents, as enacted under subsection (a) of this section. The Department shall determine eligibility for these grants based upon factors which shall include:

(1) Licensed capacity as of August 1, 1998,

(2) Occupancy rate, and

(3) Percentage of residents receiving State and county special assistance of the total residents in the adult care home.

Adult care homes that receive staffing grants under this subsection shall provide documentation to the Department showing that the home has complied with staffing ratios established under G.S. 131D-4.3(a)(5). An adult care home that receives grant funds under this subsection and is found by the Department not to have complied with staffing requirements of G.S. 131D-4.3(a)(5) shall refund to the Department a prorated

share of the staffing grant funds received by the adult care home. The Department shall incorporate the staffing grants authorized under this subsection into the existing Special Assistance payment methodology for fiscal year 2000-2001.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

ADULT CARE HOME BED VACANCIES/EXTENSION

Section 12.16C. (a) Section 11.69(b) of S.L. 1997-443 reads as rewritten:

"(b) ~~From the effective date of this act until 12 months after the effective date of this act,~~ Effective until August 26, 1999, the Department of Health and Human Services shall not approve the addition of any adult care home beds for any type home or facility in the State, except as follows:

(1) Plans submitted for approval prior to May 18, 1997, may continue to be processed for approval;

(2) Plans submitted for approval subsequent to May 18, 1997, may be processed for approval if the individual or organization submitting the plan demonstrates to the Department that on or before August 25, 1997, the individual or organization purchased real property, entered into a contract to purchase or obtain an option to purchase real property, entered into a binding real property lease arrangement, or has otherwise made a binding financial commitment for the purpose of establishing or expanding an adult care home facility. An owner of real property who entered into a contract prior to August 25, 1997, for the sale of an existing building together with land zoned for the development of not more than 50 adult care home beds with a proposed purchaser who failed to consummate the transaction may, after August 25, 1997, sell the property to another purchaser and the Department may process and approve plans submitted by the purchaser for the development of not more than 50 adult care home beds. It shall be the responsibility of the applicant to establish, to the satisfaction of the Department, that any of these conditions have been met;

(3) Adult care home beds in facilities for the developmentally disabled with six beds or less which are or would be licensed under G.S. 131D or G.S. 122C may continue to be approved;

(4) If the Department determines that the vacancy rate of available adult care home beds in a county is fifteen percent (15%) or less of the total number of available beds in the county as of ~~the effective date of this act~~ August 26, 1997, and no new beds have been approved or licensed in the county or plans submitted for approval in accordance with subdivision (1) or (2) of this section which would raise the vacancy rate above fifteen percent (15%) in the county, then the Department may accept and approve the addition of beds in that county; or

(5) If a county board of commissioners determines that a substantial need exists for the addition of adult care home beds in that county, the board

of commissioners may request that a specified number of additional beds be licensed for development in their county. In making their determination, the board of commissioners shall give consideration to meeting the needs of Special Assistance clients. The Department may approve licensure of the additional beds from the first facility that files for licensure and subsequently meets the licensure requirements."

(b) The Division of Facility Services shall notify all persons who have filed plans and received initial approval for a project to develop and construct new adult care facilities but who have not proceeded with the development of the facilities within 18 months of the date of approval, that the project has been classified as inactive. A person who has an approved project may request that the project be placed on inactive status by providing a written statement to the Division that the person does not intend to begin development or construction of the project within the ensuing State fiscal year. Projects classified as inactive may remain in that classification indefinitely. A person whose approved project has been classified as inactive may reactivate the project as approved at any time, without having to reapply for initial approval, by notifying the Division in writing of the intent to proceed with project development and construction. Changes to projects classified as inactive made subsequent to initial approval are subject to approval of the Division.

(c) Section 11.69(d) of S.L. 1997-443 reads as rewritten:

"(d) This section shall not apply to adult care home beds which are part of a continuing care facility subject to the jurisdiction of or licensed by the Department of Insurance pursuant to Article 64, Chapter 58 of the North Carolina General ~~Statutes.~~ Statutes, or to adult care home beds which are part of an application filed with the Department of Health and Human Services prior to August 28, 1997, or between July 1, 1998, and August 1, 1998, pursuant to Article 9 of Chapter 131E of the North Carolina General Statutes."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

DIVISION OF FACILITY SERVICES/PROPOSE FEE SCHEDULE

Section 12.16D. The Department of Health and Human Services, Division of Facility Services, shall develop a proposed schedule of fees to defray the cost of processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspections of these facilities. The Department shall report the proposed fee schedule to members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources, and the Joint Legislative Health Care Oversight Committee, not later than December 1, 1998. The report shall include recommended legislation for enactment of the fee schedule by the 1999 General Assembly.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Culp, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

HEALTH CARE PERSONNEL REGISTRY

Section 12.16E. Effective January 1, 1999, G.S. 131E-256 reads as rewritten:

"**§ 131E-256. Health Care Personnel Registry.**

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

(1) Been subject to findings by the Department of:

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care facility or to a patient or client.

e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The health care personnel registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(b) For the purpose of this section, the following are considered to be 'health care facilities':

(1) Adult Care Homes as defined in G.S. 131D-2.

(2) Hospitals as defined in G.S. 131E-76.

(3) Home Care Agencies as defined in G.S. 131E-136.

(4) Nursing Pools as defined by G.S. 131E-154.2.

(5) Hospices as defined by G.S. 131E-201.

(6) Nursing Facilities as defined by G.S. 131E-255.

(7) State-Operated Facilities as set forth in G.S. 122C-22.

(8) Residential Facilities and Hospitals for the Mentally Ill, Developmentally Disabled, or Substance Abusers licensed pursuant to G.S. 122C-23.

(c) For the purpose of this section, the following are considered to be 'health care personnel':

(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions

essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) A nurse aide.

(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.

(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.

(d) Health care personnel who wish to contest ~~a finding~~ findings under subdivision (a)(1) of this section ~~or the placement of information under subdivision (a)(2) of this section~~ are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice ~~by certified mail~~ of the Department's intent to place ~~information~~ its findings about the person in the health care personnel registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the health care personnel registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(e) The Department shall provide an employer or potential employer of any person listed on the health care personnel registry of the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Upon investigation and documentation, health care facilities shall ensure that the Department is notified of all allegations against health care personnel which appear to a reasonable person to be related to any act listed in subdivision (a)(1) of this section, and shall promptly report to the Department any resulting disciplinary action, demotion, or termination of employment of health care personnel.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section."

SUBPART 4. AGING

Requested by: Representatives Gardner, Cansler, Clary, Howard, Holmes, Esposito, Creech, Crawford, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Plyler, Perdue, Odom

SENIOR CENTER FUNDS

Section 12.18A. Section 11.17 of S.L. 1997-443 reads as rewritten:

"Section 11.17. (a) Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, the sum of one million dollars ($1,000,000) for the 1997-98 fiscal year and the sum of two million dollars ($2,000,000) for the 1998-99 fiscal year shall be used to support existing senior centers and to assist in the development of new senior centers. The Department shall allocate funds equally among senior centers throughout the State as determined by the Division of Aging. Expenditures of State funds for senior centers shall not exceed ninety percent (90%) of all funds expended for this purpose.

(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of one million five hundred thousand dollars ($1,500,000) for the 1998-99 fiscal year shall be used to provide grants-in-aid for the construction, renovation, and equipping of new senior centers. Grant awards shall not be less than twenty-five thousand dollars ($25,000) per grant award and may not exceed one hundred thousand dollars ($100,000) for each new senior center. Each grant award shall be matched by local funds in the amount of twenty-five percent (25%) of the total grant award."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

IN-HOME AND CAREGIVER SUPPORT FUNDS

Section 12.19A. Section 11.18 of S.L. 1997-443 reads as rewritten:

"Section 11.18. Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Aging, the sum of five million dollars ($5,000,000) for the 1997-98 fiscal year and the sum of ~~five~~ nine million one hundred forty-six thousand forty-four dollars ~~($5,000,000)~~ ($9,146,044) for the 1998-99 fiscal year shall be allocated via the Home and Community Care Block Grant for home and community care services for older persons who are not eligible for Medicaid and who are on the waiting list for these services. These funds shall be used only for direct services. Service recipients shall pay for services based on their income in accordance with G.S. 143B-181.1(a)(10)."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

FUNDS FOR ALZHEIMER'S ASSOCIATION CHAPTERS IN NC

Section 12.20. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Aging, the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year shall be allocated among the three chapters of the Alzheimer's Association, as follows:

(1) $25,000 for the Western Alzheimer's Chapter;

(2) $50,000 for the Southern Piedmont Alzheimer's Chapter; and

(3) $25,000 for the Eastern Alzheimer's Chapter.

Before funds may be allocated to any Chapter under this section, the Chapter shall submit to the Division of Aging, for its approval, a plan for the use of these funds.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

FUNDS FOR AREA AGENCIES ON AGING

Section 12.20C. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of nine hundred thousand dollars ($900,000) for the 1998-99 fiscal year shall be allocated equally among the 18 Area Agencies on Aging. These funds shall be used for planning, coordination, and operational activities that enhance each agency's ability to provide services, information, and education to consumers, and to better meet the data and technical assistance needs of providers, local planning committees, and local governments.

SUBPART 5. SOCIAL SERVICES

Requested by: Senators Martin of Guilford, Kinnaird, Lucas, Representatives Gardner, Cansler, Clary

AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTION FAMILY FUNDS

Section 12.21. Section 11.23 of S.L. 1997-443 reads as rewritten:

"Section 11.23. (a) 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~~ provide funds ~~to the Department of Environment, Health, and Natural Resources to create~~ to support three social work positions created within the Department of ~~Environment, Health, and Natural Resources,~~ Health and Human Services, 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;

b. One in the central east, covering Martin, Pitt, Washington, Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and Pamlico Counties; and

c. One in the southeast, covering New Hanover, Robeson, Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen, and Columbus Counties.

(b) The maximum rates for State participation in HIV foster care and adoptions assistance are established on a graduated scale as follows:

(1) $800.00 per month per child with indeterminate HIV status;
(2) $1,000 per month per child confirmed HIV-infected, asymptomatic;
(3) $1,200 per month per child confirmed HIV-infected, symptomatic; and
(4) $1,600 per month per child terminally ill with complex care needs."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD WELFARE SYSTEM IMPROVEMENTS

Section 12.22. Section 11.57 of S.L. 1997-443 reads as rewritten:

"Section 11.57. (a) Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, the sum of two million two hundred sixty-nine thousand seven hundred fifty-two dollars ($2,269,752) for the 1997-98 fiscal year and the sum of two million two hundred sixty-nine thousand seven hundred fifty-two dollars ($2,269,752) for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional foster care and adoption worker and supervisor positions created after July 1, 1997, based upon a formula which takes into consideration the number of ~~foster care and adoption~~ cases and the number of ~~foster care and adoption~~ workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. County departments of social services shall make diligent efforts to hire staff with a professional social work degree from an accredited social work program.

(b) Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, the sum of one hundred fifty-nine thousand dollars ($159,000) for the 1997-98 fiscal year and the sum of one hundred sixty-three thousand dollars ($163,000) for the 1998-99 fiscal year shall be used to provide funds for the State Child Fatality Review Team established and maintained pursuant to Part 4B of Article 3 of Chapter 143B of the General Statutes. ~~establish and maintain a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality.~~

~~The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities.~~

~~The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.~~

~~The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.~~

~~Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.~~

~~All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.~~

~~Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.~~

Funds allocated under this subsection shall be used as follows:

(1) To contract as needed with a statewide prevention organization and a statewide medical organization to identify and orient prevention

specialists and medical professionals with experience in reviewing child fatalities to serve on the State Child Fatality Review Team; and

(2) To pay per diem expenses as needed for the five participants in each review who are not employed by the Division of Social Services or county departments of social services.

The Division of Social Services, Department of ~~Human Resources,~~ Health and Human Services, shall report quarterly to the ~~Cochairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division on the activities of the State Child Fatality Review Team and shall provide a final report to the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources within one week of the convening of the 1997 General Assembly, Regular Session 1998, including recommendations for changes in the statewide child protection system.

(c) Counties shall not use State funds appropriated for child welfare services to supplant county funds or reduce county expenditures for child welfare services.

(d) Notwithstanding G.S. 131D-10.6A, the Division of Social Services shall establish training requirements for child welfare services staff initially hired on and after January 1, 1998. The minimum training requirements established by the Division shall be as follows:

(1) Child welfare services workers must complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities;

(2) Child protective services workers must complete a minimum of 18 hours of additional training that the Division determines is necessary to adequately meet training needs;

(3) Foster care and adoption social workers must complete a minimum of 39 hours of additional training that the Division determines is necessary to adequately meet training needs;

(4) Child Welfare Services supervisors must complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities, and a minimum of 54 hours of additional training that the Division determines is necessary to adequately meet training needs; and

(5) Child welfare services staff must complete 24 hours of continuing education annually thereafter.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human services agencies to meet the training requirements of this subsection.

~~This subsection shall expire June 30, 1999.~~ This subsection shall continue in effect until explicitly repealed.

(e) Article 3 of Chapter 143B of the General Statutes is amended by inserting a new Part to read:

'Part 4B. State Child Fatality Review Team.

"§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers; duties.

There is established in the Department of Health and Human Services, Division of Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality. Steps in this in-depth review shall include interviews with any individuals determined to have pertinent information as well as examination of any written materials containing pertinent information.

The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7A-675.1(d) prior to the public release of the findings and recommendations.

The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality."'

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD PROTECTIVE SERVICES

Section 12.23. Section 11.25 of S.L. 1997-443 reads as rewritten:

"Section 11.25. (a) The funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, for the 1997-99 fiscal biennium for Child Protective Services shall be allocated to county departments of social services based upon a formula which takes into consideration the number of Child Protective Services cases and the number of Child Protective Services workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services.

(b) Funds allocated under subsection (a) of this section shall be used by county departments of social services for carrying out ~~investigations of reports~~ investigative assessments of child abuse or neglect or for providing protective or preventive services in which the department confirms abuse, neglect, or dependency."

Requested by: Senators Plyler, Perdue, Odom, Martin of Guilford, Representatives Holmes, Esposito, Creech, Crawford

FOOD BANKS FUNDS

Section 12.24. (a) Of the funds appropriated to the Department of Health and Human Services, Division of Social Services, for food banks in this act, the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year shall be allocated as grants-in-aid as follows:

(1)	Albemarle Food Bank/Food Pantry, Inc.	$160,000
(2)	MANNA Food Bank, Inc.	$160,000
(3)	The Food Bank of Northwest, NC., Inc.	$160,000

(4) Cumberland County Action/Cape Fear Community Food Bank $160,000
(5) Second Harvest Food Bank of Metrolina, Inc. $160,000
(6) Food Bank, Inc. $160,000.

(b) Of the remaining funds appropriated to the Department of Health and Human Services, Division of Social Services, for food banks in this act, the sum of forty thousand dollars ($40,000) shall be used in the 1998-99 fiscal year to provide start-up costs for a food bank in Eastern North Carolina.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

REPORT ON PROGRESS TOWARDS AUTOMATED APPLICATION SYSTEM

Section 12.25. The Department of Health and Human Services shall make a final report within a week of the convening of the 1999 General Assembly to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources on its progress in developing and implementing a single statewide automated application system for all means-tested public assistance benefit programs.

Requested by: Senator Martin of Guilford, Representatives Howard, Berry

BIOMETRICS LAW CHANGES

Section 12.26A. (a) G.S. 108A-25.1 reads as rewritten:

"**§ 108A-25.1. Recipient identification system.**

(a) The Department shall establish and maintain a uniform system in the Department and in all counties of identifying all Work First, food stamp, and medical assistance program ~~recipients.~~ recipients, applicants, and payees, except those who are institutionalized adults, children under the age of 18 unless they are minor parents who are applying for or receiving assistance, or other individuals that federal law or regulation mandate be excluded. For purposes of this section, the term 'payee' means a responsible adult who receives assistance, whether cash assistance or services, on behalf of a recipient. This system shall provide security and portability throughout the State and between the departments within the State involved in means-tested public assistance programs and shall have the capability of identifying recipients of assistance from all means-tested programs administered or funded through the Department.

(b) The identification system established in this section shall use ~~multiple~~ fingerprint biometrics to ensure greater than ninety-nine percent (99%) accuracy for interdepartmental identification.

(c) The Department shall ensure that the biometric identification system will be compatible with any existing departmental biometric identification system.

(d) The Department shall make biometric identification a condition of eligibility for Work First, food stamp, and medical assistance programs for all recipients, applicants, and payees described in subsection (a) of this section. If any recipient, applicant, or payee is denied Work First or food stamp assistance on the basis of the identification system established in this section, the recipient's, applicant's, or payee's

whole case, or group of individuals whose eligibility for Work First or food stamp assistance is dependent on all the other group members' financial and nonfinancial situation, shall be denied Work First or food stamp assistance."

(b) Section 12.35 of S.L. 1997-443 reads as rewritten:

"Section 12.35. The Department of Health and Human Services shall have the uniform system of recipient identification established in G.S. 108A-25.1 in place and operating ~~before October 1, 1998.~~ no later than October 1, 2000. The Department shall implement the start of the phase-in process no later than October 1, 1999, and shall report on a quarterly basis to the Joint Legislative Public Assistance Commission on its progress towards statewide implementation. Except as otherwise provided in this Part, this Part is effective when it becomes law."

(c) If the United States Department of Health and Human Services or the United States Department of Agriculture or both reject by written documentation any of the specifics of the biometric identification system prescribed in G.S. 108A-25.1, the North Carolina Department of Health and Human Services shall implement any remaining unrejected specifics.

(d) The Department of Health and Human Services shall report to the Joint Legislative Public Assistance Commission (i) whenever it determines that federal law or regulation mandates that other individuals than the ones specified in G.S. 108A-25.1(a) must be excluded from the biometric identification system prescribed in G.S. 108A-25.1 and (ii) whenever it is notified by written documentation that the United States Department of Health and Human Services or the United States Department of Agriculture or both have rejected any of the specifics of the biometric identification system prescribed in G.S. 108A-25.1.

(e) Funds appropriated by S.L. 1997-443 to the Department of Health and Human Services and the Office of State Budget and Management for the Biometrics Recipient Identification System for the 1997-98 fiscal year shall not revert but shall remain available to the Department for this purpose.

(f) Subsection (e) of this section becomes effective June 30, 1998.

Requested by: Senator Martin of Guilford, Representatives Esposito, Howard, Berry

WELFARE LAW CHANGES

Section 12.27A. (a) The General Assembly approves the plan titled "North Carolina's Temporary Assistance for Needy Families State Plan FY 1998-2000", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 1998, and amended by the Temporary Assistance for Needy Families Welfare-to-Work Formula Grant Plan, prepared by the Department of Commerce and presented to the General Assembly on July 2, 1998, as amended by changes to the welfare law required by this section and any other act of the General Assembly.

(a1) G.S. 108A-27(a) reads as rewritten:

"(a) The Department shall establish, supervise and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to self-sufficiency through

~~employment.~~ gainful employment, not the mere reduction of the welfare rolls. The Department shall ensure that the Work First Program focus on this purpose of self-sufficiency. The ultimate goal of the Work First Program is the gradual elimination of generational poverty, and the Department shall ensure that all evaluations of the Work First Program, whether performed at the State or the county level, maintain this purpose and this goal of the Work First Program and effect an ongoing determination of whether the Work First Program is successful in facilitating families to move to self-sufficiency and in gradually eliminating generational poverty."

(a2) Support services under North Carolina's Temporary Assistance for Needy Families (TANF) State Plan shall be available to TANF recipients and former TANF recipients whose family income does not exceed one hundred fifty percent (150%) of the federal poverty level. Work-related services under TANF may be provided to a noncustodial parent of a minor child whose custodial parent is a TANF recipient, or to a noncustodial parent of a minor child in a child-only case, except that no work-related services shall be provided to the noncustodial parent if the services would limit or reduce Work First assistance to the custodial parent or caretaker and children. In order to be eligible for work-related services under this subsection, the noncustodial parent's family income must be not more than one hundred fifty percent (150%) of the federal poverty level.

(a3) Not later than January 1, 1999, the Department of Health and Human Services shall report to members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources, and to the Joint Legislative Public Assistance Commission, for their review, all amendments made to the State Plan to conform with changes in the welfare law required by this section and any other act of the General Assembly, and any other corrections made to ensure that the State Plan conforms with State law.

(b) G.S. 108A-27.9(a) reads as rewritten:

"(a) The Department shall prepare and submit to the Director of the ~~Budget, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds,~~ Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall submit the State Plan to the Joint Legislative Public Assistance Commission for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them."

(b1) G.S. 108A-27.9(c) reads as rewritten:

"(c) The State Plan shall include the following generally applicable provisions:

(1) Provisions to ensure that recipients who are sanctioned are provided a clear explanation of the sanction and that all recipients, including those under sanction or termination for rules infractions, are fully informed of their right to legal counsel and any other representatives they choose at their own cost;

~~(1)~~(1a) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:

a. Any regular employee is on layoff from the same or substantially equivalent job;

b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or

c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;

(2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision ~~(1)~~ (1a) of this ~~subsection;~~ subsection, and grievance procedures to resolve complaints by Work First Participants made pursuant to subdivision (3) of this subsection;

(3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the same rights under federal, State, or local laws applicable to non-Work First Program employees in similarly situated work activities, including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;

(4) A description of eligible federal and State work activities;

(5) Requirements for assignment of child support income and compliance with child support activities;

(6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and

(7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan."

(c) Section 12.20(b) of S.L. 1997-443 reads as rewritten:

"(b) The requirement that the Department prepare and submit the State Plan to the General Assembly for approval ~~in accordance with the procedures set forth in G.S. 143-16.1~~ as prescribed in G.S. 108A-27.9(a) shall not be applicable for fiscal year 1997-98. Until the counties have prepared their county plans and the State has prepared the State

Plan in accordance with this Part and that State Plan has been enacted by the General Assembly and it becomes law, and it has been certified by the United States Department of Health and Human Services, the provisions of the State Plan submitted to the federal government on October 16, 1996, shall remain in effect. The enacted State Plan that has become law shall be implemented upon certification by the United States Department of Health and Human Services, except that specific areas of the State Plan that require automation changes shall be implemented as soon as possible after certification. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly and become law in order to be effective."

(d) Section 12.36(a) of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five million seventy-five thousand two hundred two dollars ($5,075,202) for the 1997-98 fiscal year and the sum of ~~three million nine hundred thousand dollars ($3,900,000)~~ three million eight hundred seventeen thousand dollars ($3,817,000) for the 1998-99 fiscal year shall be placed in a Restrictive Reserve to Implement Welfare Reform. These funds shall be allocated from the Reserve as follows:

(1) $275,000 for the 1997-98 fiscal year and $400,000 for the 1998-99 fiscal year to support the establishment of a uniform system of public assistance programs as authorized under G.S. 108A-25.1, and to provide counties with workstations for biometric ~~imaging:~~ imaging;

(2) $2,500,000 in each fiscal year to fund program integrity activities in each ~~county;~~ county. These funds shall be given to the counties in a lump sum, and unexpended funds shall revert to the General Fund;

(3) $500,000 for the 1997-98 fiscal year to establish and support an Office of Inspector General in the Department of Justice;

(4) $300,000 in each fiscal year to establish a pilot project in the Department of Labor for creation of Individual Development Accounts;

(5) $1,500,202 for the 1997-98 fiscal year for the following purposes:

a. To establish First Stop Employment Assistance in the Department of Commerce;

b. To expand the Labor Market Information System in the Employment Security Commission; and

c. To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.

Funds shall not be allocated under this subdivision unless and until the Office of State Budget and Management has certified that federal funds are not available to the Department of Commerce for these purposes; and

(6) ~~$700,000~~ $617,000 for the 1998-99 fiscal year for the continued support of the Office of Inspector General in the Department of ~~Justice, and for the First Stop Employment Assistance in the~~

~~Department of Commerce.~~ Justice. These funds shall be allocated by the Office of State Budget and Management on the basis of need."

(e) G.S. 114-41(a)(2) reads as rewritten:

"(2) Establish policies and standards for the investigation, detection, and elimination of fraud, abuse, waste, and mismanagement in the means-tested public assistance ~~programs;~~ programs. The Inspector General shall provide each of the county directors of social services with a copy of the policies and standards for investigation established pursuant to this provision, including any amendments. When the Inspector General determines that a county social services agency has not complied with the policies and standards, the Inspector General shall notify the director of that agency of the agency's noncompliance and recommend appropriate action;".

(f) G.S. 108A-27.1(b) reads as rewritten:

"(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict with or exceed any federal time limitations."

(g) G.S. 108A-27.2 reads as rewritten:

"**§ 108A-27.2. General duties of the Department.**

The Department shall have the following general duties with respect to the Work First Program:

(1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;

~~(1)~~(1a) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;

(2) Describe authorized federal and State work activities;

(3) Define requirements for assignment of child support income and compliance with child support activities;

(4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each even-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each even-numbered year and review and then recommend a State Plan to the General Assembly;

(5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;

(6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;

(7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;

(8) Report monthly to the Joint Legislative Public Assistance Commission on the monthly progress reports submitted by the counties to the Department;

(9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;

(10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and report every six months to the Director of the Budget and the Joint Legislative Public Assistance Commission and annually to the General Assembly on the counties' attainment of the outcomes and goals;

(11) Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Joint Legislative Public Assistance Commission on the performance of counties in achieving Work First Program expectations;

(12) Report to the Joint Legislative Public Assistance Commission and the ~~House and Senate Appropriations Subcommittees on Human Resources~~ members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources the counties which have requested Electing status, provide copies of the proposed Electing County Plans to the Joint Legislative Public Assistance Commission and ~~the House and Senate Appropriations Subcommittees on Human Resources,~~ the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and make recommendations to the Joint Legislative Public Assistance Commission, the ~~chairs~~ members of the ~~House and Senate Subcommittees on Human Resources,~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources, and the General Assembly on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and

(13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at ~~October~~ September 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended."

(g1) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 1998-2000 as approved by this section are: Alamance, Caldwell, Caswell, Chatham, Cherokee, Davie, Forsyth, Henderson, Iredell, Lincoln, Macon, McDowell, New Hanover, Polk, Randolph, Rutherford, Sampson, Stokes, Surry, Transylvania, and Wilkes.

(h) G.S. 108A-27.3(a) reads as rewritten:

"(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

(1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;

(2) Establish eligibility criteria for ~~recipients;~~ recipients except for those criteria related to sanctioning procedures mandated across the State pursuant to G.S. 108A-27.9(c);

(3) Prescribe the method of calculating benefits for recipients;

(4) Determine and list persons and families eligible for the Work First Program;

(5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;

(6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;

(7) ~~Provide~~ Consider providing community service work for any recipient who cannot find employment;

(8) Make payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;

(9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;

(10) Monitor and evaluate the impact of the Work First Program on economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly;

(11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;

(12) Develop, adopt, and submit to the Department a biennial County Plan;

(13) Provide monthly progress reports to the Department in a format to be determined by the Department;

(14) Develop and implement an appeals process for the county's Work First Program that substantially complies with ~~G.S. 108A-79.~~ G.S. 108A-79 and comply with the procedures related to sanctioning by the Department for all counties in the State pursuant to G.S. 108A-27.2 and prescribed as general provisions in the State Plan pursuant to G.S. 108A-27.9(c)(1)."

(i) G.S. 108A-27.11 reads as rewritten:

"**§ 108A-27.11. Work First Program funding.**

(a) County block grants, except funds for Work First Family Assistance, shall be computed based on the percentage of each county's total AFDC (including AFDC-EA) and JOBS expenditures, except expenditures for cash assistance, to statewide actual expenditures for those programs in fiscal year 1995-96. The resulting percentage shall be applied to the State's total ~~budgeted funds,~~ certified budget enacted by the General Assembly for each fiscal year, except funds budgeted for Work First Family Assistance, for Work First Program expenditures at the county level.

(b) The following shall apply to funding for Standard Program Counties:

(1) The Department shall make payments of Work First Family Assistance and Work First Diversion Assistance subject to the availability of federal, State, and county funds.

(2) The Department shall reimburse counties for county expenditures under the Work First Program subject to the availability of federal, State, and county funds.

(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the ~~total budgeted funds for Work First Family Assistance.~~ federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter. Once paid, the county block grant funds shall not revert."

(j) G.S. 108A-27.12 reads as rewritten:

"**§ 108A-27.12. Maintenance of effort.**

(a) The Department shall define in the State Plan or by rule the term 'maintenance of effort' based on that term as defined in Title IV-A and shall provide to counties a list of activities that qualify for federal maintenance of effort requirements.

(b) If a county fails to comply with the maintenance of effort requirement in subsection (a) of this section, the Director of the Budget may withhold State moneys appropriated to the county pursuant to G.S. 108A-93.

(c) The Department shall maintain the State's maintenance of effort at one hundred percent (100%) of the ~~amount the State budgeted~~ State certified budget enacted by the General Assembly for programs under this Part during fiscal year 1996-97. At no time shall the Department reduce or reallocate State or county funds previously obligated or appropriated for Work First County Block Grants or child welfare services.

(d) For Standard Program Counties, using the ~~preceding~~ 1996-97 fiscal year as the base year, counties shall maintain a financial commitment to the Work First Program equal to the proportion of State funds allocated to the Work First Program. At no time shall a Standard Program County reduce State or county funds previously obligated or appropriated for child welfare services.

(e) During the first year a county operates as an Electing County, the county's maintenance of effort shall be no less than ninety percent (90%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97. If during the first year of operation as Electing the Electing County achieves one hundred percent (100%) of its goals as set forth in its Electing County Plan, then the Electing County may reduce its maintenance of effort to eighty percent (80%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97 for the second year of the Electing County's operation and for all years thereafter that the county maintains Electing Status."

(k) G.S. 108A-27.16 reads as rewritten:

"**§ 108A-27.16. Use of Work First Reserve Fund.**

(a) By the fifteenth of each month, the Secretary shall certify to the Director of the Budget and the Fiscal Research Division of the General Assembly the actual expenditures for Work First Family Assistance for the fiscal year up until the beginning of that month and the projected expenditures for the remainder of the fiscal year. ~~If on March 1 the actual expenditures for the fiscal year exceed two-thirds of the total amount of expenditures expected for the entire fiscal year,~~ If the Director of the Budget declares that the State, an individual county, or an individual region is in a state of economic emergency with regard to lack of funds available for Work First Family Assistance through events beyond their control, then the Director of the Budget shall direct the Secretary ~~shall~~ to attempt to access any available federal funds. If federal funds are unavailable and the General Assembly is not in session, the Director of the Budget may, in the order below:

(1) Use funds available from the Work First Reserve Fund established pursuant to ~~G.S. 143-15.3C;~~ G.S. 143-15.3C to provide Work First Family Assistance funds for the State, the individual counties, or the individual region;

(2) Use funds available to the ~~Department;~~ Department to provide Work First Family Assistance funds for the State, the individual counties, or the individual region; or

(3) Notwithstanding G.S. 143-23, use funds available from other departments, institutions, or other spending agencies of the ~~State.~~ State to provide Work First Family Assistance funds for the State, the individual counties, or the individual region.

(b) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the ~~House of Representatives and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources prior to making any transfer pursuant to this section.

(c) Except as provided in this section, funds from the Work First Reserve Fund established pursuant to G.S. 143-15.3C shall not be expended until appropriated by the General Assembly."

(l) G.S. 108A-29(o) is recodified as G.S. 108A-29(d); G.S. 108A-29(p) is recodified as G.S. 108A-29(e); G.S. 108A-29(e) is recodified as G.S. 108A-29(g); G.S. 108A-29(i) is recodified as G.S. 108A-29(h); G.S. 108A-29(k) is recodified as G.S. 108A-29(i); G.S. 108A-29(l) is recodified as G.S. 108A-29(j); G.S. 108A-29(m) is recodified as G.S. 108A-29(k); G.S. 108A-29(j) is recodified as G.S. 108A-29(l); G.S. 108A-29(n) is recodified as G.S. 108A-29(m); G.S. 108A-29(g) is recodified as G.S. 108A-29(n); G.S. 108A-29(h) is recodified as G.S. 108A-29(o); G.S. 108A-29(d) is recodified as G.S. 108A-29(p); G.S. 108A-29(r) is recodified as G.S. 108A-29(s).

(m) G.S. 108A-29 reads as rewritten:

"**§ 108A-29. First Stop Employment Assistance; priority for employment services.**

(a) There is established in the ~~Department of Commerce~~ Employment Security Commission a program to be called First Stop Employment Assistance. The ~~Secretary of the Department of Commerce~~ Chair of the Employment Security Commission shall administer the program with the participation and cooperation of the ~~Employment Security Commission,~~ Department of Commerce, county boards of commissioners, the Department of Health and Human Services, the Department of Labor, the Department of Crime Control and Public Safety, and the community college system. The responsibilities of each agency shall be specified in a Memorandum of Understanding between the ~~Departments of Commerce and~~ Employment Security Commission and the Department of Health and Human Services, in consultation with the ~~Employment Security Commission,~~ Department of Commerce, the Department of Labor, and the community college system. The Employment Security Commission shall be the presumptive primary deliverer of job placement services for the Work First Program.

(b) Individuals seeking to apply or reapply for Work First Program assistance and who are not exempt from work requirements shall register with the First Stop Employment Assistance Program. The point of registration shall be at an office of the Employment Security Commission in the county in which the individual resides or at another location designated in a Memorandum of Understanding between the Employment Security Commission and the local department of social services.

(c) Individuals who are not otherwise exempt shall present verification of registration at the time of applying for Work First Program assistance. Unless exempt, the individual shall not be approved for Work First Program assistance until verification is received. Child-only cases are exempt from this requirement.

(d) Once an individual has registered as required in subsection (c) of this section and upon verification of the registration by the agency or contractor providing the Work

First Program assistance, the individual's eligibility for Work First Program assistance may be evaluated and the application completed. Continued receipt of Work First Program benefits is contingent upon successful participation in the First Stop Employment Program, and lack of cooperation and participation in the First Stop Employment Program may result in the termination of benefits to the individual.

(e) The county board of commissioners shall determine which agencies or nonprofit or private contractors will participate with the Employment Security Commission and the local department of social services in developing the rules to implement the First Stop Employment Program.

(f) At the county's option, the Employment Security Commission, in consultation with and with the assistance of the agencies specified in the Memorandum of Understanding described in subsection (b) of this section, shall provide to Work First Program registrants the continuum of services available through its Employment ~~Services division.~~ Security Commission. Each County Plan may provide that the county department of social services enter into a cooperative agreement with the Employment Security Commission ~~for job registration, job search, and job placement~~ to operate the Job Search component on behalf of Work First Program registrants. The cooperative agreement shall include a provision for payment to the Employment Security Commission by the county department of social services for the cost of providing ~~the services~~ those services, not otherwise available to all clients of the Employment Security Commission, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant. The county department of social services may also enter into a cooperative agreement with the community college system or any other entity to operate the Job Preparedness component. This cooperative agreement shall include a provision for payment to that entity by the county department of social services for the cost of providing those services, not otherwise available to all clients of the Employment Security Commission, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant.

(g) The Employment Security Commission shall be the primary job placement entity of the Work First Program. The Employment Security Commission shall further assist registrants through job search, job placement, or referral to community ~~service.~~ service, if contracted to do so.

(h) An individual placed in the Job Search component of the First Stop Employment Program shall look for work and shall accept any suitable employment. ~~The~~ If contracted, the Employment Security Commission shall refer individuals to current job openings and shall make job development contacts for individuals. Individuals so referred shall be required to keep a record of their job search activities on a job search record form provided by the Commission, and the Employment Security Commission will monitor these activities. A 'job search record' means a written list of dates, times, places, addresses, telephone numbers, names, and circumstances of job interviews. The Job Search component shall include at least one weekly contact with the Employment Security Commission. The Employment Security Commission shall adopt rules to accomplish this subsection.

(i) The Employment Security Commission shall notify all employers in the State of the 'Exclusive No-Fault' Referral Service available through the Employment Security Commission to employers who hire personnel through Job Service referrals.

(j) All individuals referred to jobs through the Employment Security Commission shall be instructed in the procedures for applying for the Federal Earned Income Credit (FEIC). All individuals referred to jobs through the Employment Security Commission who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their employers.

(k) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, food stamps, subsidies, public housing, or Supplemental Security Income.

(l) The Employment Security Commission shall work with the Department of Labor to develop a relationship with these private employment agencies to utilize their services and make referrals of individuals registered with the Employment Security Commission.

(m) An individual who has not found a job within 12 weeks of being placed in the Job Search component of the Program may also be placed in the Community Service component at the county's option.

(n) If after evaluation of an individual the Employment Security Commission believes it necessary, the Employment Security Commission or the county department of social services also may refer an individual ~~placed in~~ to the Job Preparedness component of the First Stop Employment ~~Program to a local community college for enrollment in~~ Program. The local community college should include General Education Development, Adult Basic Education, or Human Resources Development programs ~~which~~ that are already in ~~existence.~~ existence as a part of the Job Preparedness component. Additionally, the Commission or the county department of social services may refer an individual to a literacy council. Through a Memorandum of Understanding between the Employment Security ~~Commission and~~ Commission, the local department of social services, and other contracted entities, a system shall be established to monitor an individual's progress through close communications with the agencies assisting the individual. The Employment Security Commission or Job Preparedness provider shall adopt rules to accomplish this subsection.

(o) The Job Preparedness component of the Program shall last a maximum of 12 weeks unless the recipient is registered and is satisfactorily progressing in a program that requires additional time to complete. Every reasonable effort shall be made to place the recipient in part-time employment or part-time community service if the time required exceeds the 12-week maximum. The ~~Employment Security Commission~~ county department of social services may contract with service providers to provide the services described in this section and shall monitor the provision of the services by the service providers. Registrants may participate in more than one component at a time.

(p) The Employment Security Commission shall expand its Labor Market Information System. The expansion shall at least include: statistical information on unemployment rates and other labor trends by county; and publications dealing with licensing requirements, economic development, and career projections, and information

technology systems which can be used to track participants through the employment and training process.

(q) Each county shall organize a Job Service Employer Committee, based on the membership makeup of the Job Service Employer Committees in existence at the time this act becomes law. Each Job Service Employer Committee in counties participating in the First Stop Employment Program shall oversee the operation of the First Stop Employment Program in that county and shall report to the local Employment Security Commission quarterly on its recommendations to improve the First Stop Employment Program. The Employment Security Commission shall develop the reporting method and time frame and shall coordinate a full report to be presented to the Joint Legislative Public Assistance Commission by the end of each calendar year. Counties having a Workforce Development Board may designate the Board to perform the duties described in this section rather than organizing a Job Service Employer Committee.

(r) Each county's Job Service Employer Committee or Workforce Development Board shall continue the study of the working poor, titled 'NC WORKS', in their respective counties and shall include the following in the study:

(1) Determination of the extent to which current labor market participation enables individuals and families to earn the amount of disposable income necessary to meet their basic needs;

(2) Determination of how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;

(3) Examination of job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;

(4) Consideration and determination of the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;

(5) Evaluation of the effectiveness of the unemployment insurance system in meeting the needs of low-wage workers when they become unemployed;

(6) Examination of the efficacy of a State-earned income tax credit that would enable working families to meet the requirements of the basic needs budget;

(7) Examination of the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;

(8) Solicitation, receipt, and acceptance of grants or other funds from any person or entity and enter into agreements with respect to these grants

or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and

(9) A request of any necessary data from either public or private entities that relate to the needs of the committee or board.

Each committee or board shall prepare and submit a report on the finding for the county which it represents by May 1 of each year to the Joint Legislative Public Assistance Commission, the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Human Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources.

(s) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for Work First Family Assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining employment services including training and community service provided by or through State agencies or counties or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons."

(n) Section 12.7(b) of S.L. 1997-443 is repealed.

(o) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(9a) To furnish information to the Employment Security Commission to the extent required for its NC WORKS study of the working poor pursuant to G.S. 108A-29(r). The Employment Security Commission shall use information furnished to it under this subdivision only in a nonidentifying form for statistical and analytical purposes related to its NC WORKS study. The information that may be furnished under this subdivision is the following with respect to individual income taxpayers, as shown on the North Carolina income tax forms:

a. Name, social security number, spouse's name, and county of residence.

b. Filing status and federal personal exemptions.

c. Federal taxable income, additions to federal taxable income, and total of federal taxable income plus additional income.

d. Income while a North Carolina resident, total income from North Carolina sources while a nonresident, and total income from all sources."

(p) G.S. 96-14 is amended by adding a new subdivision to read:

"(1f) For the purposes of this Chapter, any claimant's leaving work, or discharge, if the claimant has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes as the result of domestic violence committed upon the claimant or upon a minor child with or in the custody of the claimant by a person who has or has had a familial relationship with the claimant or minor child, shall constitute good cause for leaving work. Benefits paid on the basis of this section shall be noncharged."

(q) The Department of Health and Human Services shall apply to the United States Department of Agriculture to operate a simplified Food Stamp Program, to make it possible to include the value of food stamp payments as compensation for community service or work experience.

(r) Notwithstanding any law to the contrary, the Department of Health and Human Services and Electing Counties shall ensure that Individual Development Accounts' allowable purposes include purchase of a vehicle.

(r1) Beginning January 1, 1999, the Department shall report quarterly on the extent to which the State and counties are meeting federal maintenance of effort requirements under Temporary Assistance for Needy Families. The Department and the counties shall work together to maximize full achievement of the State and county maintenance of effort. The Department shall make its report to members of the House of Representatives Appropriations Subcommittee on Human Resources, the Senate Appropriations Committee on Human Resources, and the Joint Legislative Public Assistance Committee, and to the Fiscal Research Division.

(r2) The Department shall begin immediately to work with counties, area mental health authorities, and other public and private entities or partnerships that provide services to Temporary Assistance for Needy Families recipients paid for with State and local funds to identify those services and activities that meet federal maintenance of effort requirements. The Department shall report the status of identifying services and activities in its quarterly report on meeting federal maintenance of effort requirements as required under subsection (r1) of this section.

(r3) In order to maximize efficiency and effectiveness and minimize duplication of services under TANF, Welfare-to-Work, and First Stop Employment Assistance programs to help individuals attain economic self-sufficiency, the Department of Commerce, the Department of Community Colleges, the Department of Health and Human Services, and the Employment Security Commission shall design and implement activities and services under these programs in a way that maximizes use of TANF and Welfare-to-Work Formula Grant Plan funds in accordance with federal requirements.

(r4) The Department of Commerce shall provide to the General Assembly for its review a copy of the Welfare-to-Work Formula Grant Plan for the 1999-2000 fiscal year before submitting the Plan to the United States Department of Labor for its approval.

(s) Subsection (d) of this section becomes effective June 30, 1998.

Requested by: Senators Martin of Guilford, Cooper, Perdue, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard, Berry, Esposito

WELFARE REFORM AUTOMATION FUNDING CARRY FORWARD

Section 12.28. Of the funds appropriated in S.L. 1997-443 to the Department of Health and Human Services for the 1997-98 fiscal year to implement welfare reform automation specified in the Work First Business Plan, the sum of seven million dollars ($7,000,000) may be carried forward to the 1998-99 fiscal year to be used for the same purposes.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

CHILD PLACING AGENCIES' RATE STUDY

Section 12.29A. From funds appropriated to the Department of Health and Human Services in this act, the Department shall contract with an independent consultant to conduct a study of the rate setting of the State's licensed child placing agencies. This study shall:

(1) Review the agencies' current rate-setting process; and

(2) Determine whether this process is resulting in adequate reimbursement.

The Department shall report the results of this study, together with any recommendations, to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by May 15, 1999.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Berry, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

LABOR MARKET INFORMATION/COMMON FOLLOW UP SYSTEMS' FUNDS

Section 12.29B. Of the funds appropriated for the 1998-99 fiscal year to the Department of Health and Human Services for automation, the sum of one million dollars ($1,000,000) shall be transferred to the Employment Security Commission for the Labor Market Information and the Common Follow Up Systems.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

REPEAL REVIEW OF AUTOMATED COLLECTION AND TRACKING SYSTEM

Section 12.29C. Section 11.28 of S.L. 1997-443 is repealed.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

CHILD WELFARE SYSTEM PILOTS

Section 12.29D. (a) The Department of Health and Human Services, Division of Social Services, shall develop a plan, working with local departments of social services, to implement a dual response system of child protection in no fewer than two and no more than five demonstration areas in this State. The plan should provide for the pilots to implement dual response systems in which:

(1) Local child protective services and law enforcement work together as coinvestigators in serious abuse cases; and

(2) Local departments of social services respond to reports of child abuse or neglect with a family assessment and services approach.

(b) The Department of Health and Human Services shall plan for the development of data collection processes that would enable the General Assembly to assess the impact of these pilots on:

(1) Child safety;

(2) Timeliness of response;

(3) Timeliness of services;

(4) Coordination of local human services;

(5) Cost effectiveness;

(6) Any other related issues.

(c) The Department shall make a progress report on the development of the plan required under this section. The report shall be made no later than April 1, 1999, and shall be submitted to members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources.

(d) The Department of Health and Human Services may proceed to implement the pilot dual response systems if non-State funds are identified for this purpose.

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

WORK FIRST RESERVE/SECOND YEAR FUNDS

Section 12.29F. Section 12.34 of S.L. 1997-443 reads as rewritten:

"Section 12.34. Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, the sum of sixteen million dollars ($16,000,000) for the 1997-98 fiscal year ~~and the sum of twenty million dollars ($20,000,000) for the 1998-99 fiscal year~~ shall be placed in the Work First Reserve Fund established pursuant to G.S. 143-15.3C."

SUBPART 6. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

THOMAS S. COST CONTAINMENT REPORT EXTENSION

Section 12.30. Section 11.37 of S.L. 1997-443 reads as rewritten:

"Section 11.37. ~~(a) If Thomas S. funds are not sufficient, then notwithstanding G.S. 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the Department in an amount not to exceed fifteen million two hundred thousand dollars ($15,200,000).~~

~~(b)~~(a) The Department of ~~Human Resources,~~ Health and Human Services, in conjunction with area mental health programs, shall develop and implement cost containment measures to reduce the cost of direct services. The Department shall develop these strategies to emphasize positive client outcomes through developmental disability long-term managed supports rather than to emphasize process. These measures shall include, but not be limited to, the following:

(1) Reduction of those process-oriented tasks required by the State, including, but not limited to, tasks required by the Divisions of: Medical Assistance, Vocational Rehabilitation Services, Social Services, Facilities Services, and Mental Health, Developmental Disabilities, and Substance Abuse Services;
(2) Single stream funding from all available sources;
(3) Waivers of federal requirements in order to comply with the federal court order; and
(4) Review and, if necessary, amendment or repeal of rules that conflict or otherwise interfere with cost containment measures.

~~(c)~~(b) The Department shall provide to the members of the House and Senate Appropriations Subcommittees on Human Resources, and to the Fiscal Research Division a detailed report of the status of development and implementation of cost containment measures required under this section. The report shall address each of the measures listed in subsection (b) of this section, and any other related cost containment measures developed by the Department. The Department shall provide the report on ~~December 1, 1997, and May 1, 1998.~~ May 1, 1999."

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

EARLY INTERVENTION SERVICES/REFERRALS/STUDY

Section 12.32A. (a) Section 11.43 of S.L. 1997-443 reads as rewritten:

"Section 11.43. Of the funds appropriated in this act to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of five million dollars ($5,000,000) for the 1997-98 fiscal year and the sum of five million dollars ($5,000,000) for the 1998-99 fiscal year shall be allocated based on a plan developed in consultation with the affected divisions within the Department and the North Carolina Interagency Coordinating Council to meet the needs of those children who are on the waiting list for early intervention services. The Department may create up to 41 new positions, as needed, in the Division of Services for the Blind and the Division of Services for the Deaf and the Hard of Hearing to expand early intervention-related preschool ~~services.~~ services for children from birth through five years of age with priority given to children birth through two years of age.

The North Carolina Schools for the Deaf and other agencies providing early intervention services to children from birth through five years of age shall ~~work together to develop procedures to ensure that Beginnings for Parents of Hearing-Impaired Children, Inc., shall be notified of children newly identified with hearing loss and determined to be eligible for services.~~ implement procedures to ensure that:

(1) Parents of children newly identified with hearing loss and determined to be eligible for services are informed of the services available to them through Beginnings for Parents of Hearing-Impaired Children, Inc., and

(2) Beginnings for Parents of Hearing-Impaired Children, Inc., with the consent of parents, is notified of these children in a timely and appropriate manner."

(b) The North Carolina Interagency Coordinating Council, with the assistance of the Department of Health and Human Services and the Department of Public Instruction, shall conduct a comprehensive review of North Carolina's system for delivering early intervention services to children ages birth through five years. This study shall identify issues and recommend solutions to the following:

(1) Eligibility for services,
(2) Quality, availability, and timeliness of services,
(3) Improving transition from the infant-toddler program to the pre-school program,
(4) Management of and focus on preschool services for children with vision and hearing impairments, and
(5) Matters pertaining to interagency coordination, and to funding.

The ICC shall report its findings and recommendations to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources, the Education Oversight Committee, and the Fiscal Research Division not later than March 1, 1999.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

NONMEDICAID REIMBURSEMENT CHANGES

Section 12.33. Section 11.12 of S.L. 1997-443 reads as rewritten:

"Section 11.12. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults with mental retardation and mental illness may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of ~~Human Resources~~ Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of ~~Human Resources~~ Health and Human Services may negotiate with providers of medical services under the various Department of ~~Human Resources~~ Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	All Rehabilitation	Other
1	$ 4,860	$ 8,364	$ 4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,824	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind ~~and for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services~~ shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for people in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifteen percent (115%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-100%	100%	0%
101-120%	95%	5%
121-140%	85%	15%
141-160%	75%	25%
161-180%	65%	35%
181-200%	55%	45%
201-220%	45%	55%
221-240%	35%	65%
241-260%	25%	75%
261-280%	15%	85%
281-300%	5%	95%

301%-over	0%	100%.

The Department of ~~Human Resources~~ Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department."

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard, Ellis, Holmes, Esposito, Creech, Crawford

FUNDS TO REDUCE WAITING LIST FOR SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS/DEVELOPMENTAL DISABILITY SERVICES REVIEW AND INITIATIVES

Section 12.34. (a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of six million dollars ($6,000,000) for the 1998-99 fiscal year shall be used to provide family support services to developmentally disabled individuals who are not eligible for the Medicaid Community Alternative Program for Mentally Retarded/Developmentally Disabled persons and who are on the Department's waiting list for services.

(b) The Department of Health and Human Services shall review and implement initiatives to provide and enhance person-centered and family support services to developmentally disabled individuals served by the State and local public mental health services system. In order to accomplish this, the Department shall do all of the following:

(1) Immediately pursue approval from the Health Care Financing Administration to implement flexible funding under the CAP-MR/DD Waiver as soon as possible;

(2) Study the feasibility of providing new or additional services as part of the regular Medicaid program which are aimed at keeping developmentally disabled individuals in their homes rather than using the current criterion used in the Medicaid CAP-MR/DD Waiver Program. The study shall include a projected cost-benefit analysis;

(3) Work with area mental health authorities to determine why Medicaid-eligible individuals are waiting for services in the area mental health programs;

(4) Establish goals for the State and area mental health programs that require not more than a six-month wait for services for developmentally disabled individuals;

(5) Collaborate with area mental health programs to maximize the use of existing funds to increase services to the developmentally disabled, non-Medicaid and non-CAP-MR/DD eligible population; and

(6) Pursue additional Medicaid waivers which emphasize person-centered and family support services for developmentally disabled individuals.

The Department shall work with other State agencies as necessary to implement this section.

The Department shall report the results of its compliance with this section to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than May 1, 1999. The report shall also include the impact of expansion funds on the waiting list for services for developmentally disabled individuals.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

STUDY OF STATE PSYCHIATRIC HOSPITALS/AREA MENTAL HEALTH PROGRAMS

Section 12.35A. (a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven hundred fifty thousand dollars ($750,000) for the 1998-99 fiscal year shall be transferred to the Office of the State Auditor. The State Auditor shall use these funds to coordinate a comprehensive study of the State psychiatric hospitals and area mental health programs and shall involve the Fiscal Research Division throughout the study process on such matters as Requests for Proposals and study content. Also throughout the study process, the State Auditor shall consult with the Fiscal Research Division and with the Department of Health and Human Services on other matters pertaining to the study. In coordinating the study project, the State Auditor shall contract with independent consultants with expertise in the structure, administration, and programs of mental health systems and state psychiatric hospitals. The study shall build upon results of the MGT, Inc., study, shall include costs of construction and operation of new facilities as compared to redesign and long-term operation of other existing State psychiatric hospitals, and, weighing both cost efficiencies and the availability of and access to quality patient care, shall assess all of the following:

(1) How many and what type of beds are needed statewide, in a manner that provides adequate and efficient access.

(2) The capacity and ability of area mental health programs to efficiently and effectively absorb specific services now provided within the existing State hospital system.

(3) The overall structure of the mental health delivery system, including:

a. Changes that should be made to ensure an operating structure through which improved and adequate quality of services to clients will be delivered efficiently;

b. The kinds of structures and processes that should be established to ensure the most efficient and effective systems for governance, service delivery, program administration, and oversight;

c. Any changes that should be made in the relationships and roles pertaining to State and local government agencies so as to

create and foster more efficient and effective program operations.

(4) Current operational and administrative policies and procedures, and current funding streams.

(b) The State Auditor shall make the following reports to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources:

(1) An interim report on the study of the State psychiatric hospitals not later than May 1, 1999, and a final report not later than December 1, 1999.

(2) A progress report on the study of the area mental health programs not later than March 15, 1999, a first interim report not later than May 1, 1999, a second interim report not later than November 1, 1999, and a final report not later than April 1, 2000.

(3) An interim report on items required under subsection (a)(4) of this section not later than March 15, 1999, and a final report not later than May 1, 1999.

(c) In coordinating this study project, the State Auditor shall ensure that reasonable opportunity during the study is provided for collaboration and consultation between the entity conducting the study, the Department of Health and Human Services, and other affected parties.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

CIVIL COMMITMENT/FORENSIC UNIT

Section 12.35B. (a) G.S. 15A-1321 reads as rewritten:

"**§ 15A-1321. Automatic civil commitment of defendants found not guilty by reason of insanity.**

(a) When a defendant charged with a ~~crime~~ crime, wherein it is not alleged that the defendant inflicted or attempted to inflict serious physical injury or death, is found not guilty by reason of insanity by verdict or upon motion pursuant to G.S. 15A-959(c), the presiding judge shall enter an order finding that the defendant has been found not guilty by reason of insanity of a crime and committing the defendant to a State 24-hour facility designated pursuant to G.S. 122C-252. The court order shall also grant custody of the defendant to a law enforcement officer who shall take the defendant directly to that facility. Proceedings thereafter are in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes.

(b) When a defendant charged with a crime, wherein it is alleged that the defendant inflicted or attempted to inflict serious physical injury or death, is found not guilty by reason of insanity, by verdict, or upon motion pursuant to G.S. 15A-959(c), notwithstanding any other provision of law, the presiding judge shall enter an order finding that the defendant has been found not guilty by reason of insanity of a crime and committing the defendant to a Forensic Unit operated by the Department of Health and Human Services, where the defendant shall reside until the defendant's release in

accordance with Chapter 122C of the General Statutes. The court order shall also grant custody of the defendant to a law enforcement officer who shall take the defendant directly to the facility. Proceedings not inconsistent with this section shall thereafter be in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes."

(b) This section becomes effective January 1, 1999, and applies to offenses committed on and after that date.

Requested by: Senators Martin of Guilford, Phillips, Dannelly, Cooper, Purcell, Representatives Gardner, Cansler, Clary, Howard

AREA MENTAL HEALTH AUTHORITY PROGRAM ACCOUNTABILITY

Section 12.35C. (a) G.S. 122C-112(a) is amended by adding the following new subdivision to read:

"(16) Monitor the fiscal and administrative practices of area mental health programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by area programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles."

(b) Notwithstanding G.S. 150B-21.1, the Secretary may adopt temporary rules to implement subsection (a) of this section, provided that the temporary rules shall not become effective until 60 days after the Secretary has provided notice and opportunity for written comment to the general public of the Secretary's intent to adopt temporary rules, the purpose and subject matter of the rules, and the effective date of the rules. Notice and comment shall be through publication in the North Carolina Register, in the print media, and through mailings to area mental health authorities and other appropriate mental health institutions and providers that will be subject to the temporary rules.

(c) G.S. 122C-112(b) is amended by adding the following new subdivisions to read:

"(10) Contract with one or more private providers or other public service agencies to serve clients of an area authority and reallocate the area authority's funds to pay for services under the contract if the Secretary finds all of the following:

a. The area authority refuses or has failed to provide the services to clients within its service area in a manner that is at least adequate.

b. Clients within the area authority's service area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another area authority.

c. There is at least one private provider or public service agency within the area authority's service area willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area board of the Secretary's intent to contract, and shall provide the area authority an opportunity to be heard.

(11) Contract with one or more private providers or other public service agencies to serve clients from more than one area authority and reallocate the funds of the applicable area authorities to pay for services under the contract if the Secretary finds either that there is no area program available to act as the administrative entity under contract with the provider or that the administering area program refuses or has failed to properly manage and administer the contract with the contract provider and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area board of the Secretary's intent to contract, and shall provide the area authority an opportunity to be heard."

(d) G.S. 122C-191(d) reads as rewritten:

"(d) The Secretary shall develop rules for a review process to monitor area facilities and State facilities for compliance with the required quality assurance activities as well as other rules of the Commission and the Secretary. The rules may provide that the Secretary has the authority to determine whether applicable standards of practice have been met."

(e) The Secretary shall ensure that contracts between the Department and area mental health authorities are in standardized form to the extent practicable.

(f) The Secretary shall submit a report to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Legislative Health Care Oversight Committee not later than March 1, 1999. The report shall include all of the following:

(1) Temporary rules adopted pursuant to subsection (a) of this section.

(2) Methods for ensuring area mental health authority compliance with the rules. Methods shall take into account the Secretary's existing authority over area programs under G.S. 122C-124, 122C-125, 122C-125.1, and 122C-126, as well as the general powers and duties conferred upon the Secretary under Chapter 122C of the General Statutes.

(3) Methods for ensuring area mental health program compliance with applicable standards of practice and with existing laws, rules, and regulations governing clinical practices.

(4) Methods for assisting area mental health programs in complying with applicable standards of practice and with State and federal laws, rules, regulations, and standards.
(5) Any recommendations, including proposed legislation, the Secretary may have to enhance accountability of area mental health programs.

Requested by: Representatives Cansler, Gardner, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

AGENCY OVERSIGHT OF CARE PROVIDED TO PERSONS WITH MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Section 12.35D. The Department of Health and Human Services shall review the effectiveness of existing agency oversight with respect to family care centers, foster homes, nursing homes, and adult care homes which provide care for persons with mental illness and for persons with developmental disabilities. The report shall include, but not be limited to, all of the following:

(1) The current status of enforcement of existing laws, rules, and regulations in local settings, who is responsible for enforcement and under what authority,
(2) Whether and to what extent clients, families, and staff in small residential settings feel free to speak to responsible authorities empowered to resolve problems without fear of reprisal, and
(3) What can be done about problems in facilities that require immediate resolution for which no enforcement remedies are immediately available.

The Department shall report its findings and recommendations to the Joint Legislative Health Care Oversight Committee and the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services no later than April 1, 1999.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

SUBSTANCE ABUSE GRANT-IN-AID

Section 12.35G. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one hundred thousand dollars ($100,000) shall be used as a grant-in-aid to Day-by-Day, Inc., for the provision of substance abuse services statewide. The Department, in conjunction with Day-by-Day, Inc., shall report to the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources on the use of these funds and on the following:

(1) The number of clients served by Day-by-Day, Inc.,
(2) The types of services provided,
(3) Demographic information on clients served,
(4) Source of referrals to Day-by-Day, and

(5) Changes being implemented by Day-by-Day to improve and stabilize management practices and financial accountability.

The Department shall make its report no later than March 1, 1999.

SUBPART 7. CHILD DEVELOPMENT

Requested by: Senators Plyler, Perdue, Odom, Cooper, Representatives Holmes, Esposito, Creech, Crawford

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES REFORM

Section 12.37B. (a) Part 10B of Article 3 of Chapter 143B of the General Statutes reads as rewritten:

"Part 10B. Early Childhood Initiatives.

"**§ 143B-168.10. Early childhood initiatives; findings.**

The General Assembly finds, upon consultation with the Governor, that every child can benefit from, and should have access to, high-quality early childhood education and development services. The economic future and well-being of the State depend upon it. To ensure that all children have access to high-quality early childhood education and development services, the General Assembly further finds that:

(1) Parents have the primary duty to raise, educate, and transmit values to young preschool children;

(2) The State can assist parents in their role as the primary caregivers and educators of young preschool children; and

(3) There is a need to explore innovative approaches and strategies for aiding parents and families in the education and development of young preschool children.

"**§ 143B-168.11. Early childhood initiatives; purpose; definitions.**

(a) The purpose of this Part is to establish a framework whereby the General Assembly, upon consultation with the Governor, may support through financial and other means, the North Carolina Partnership for Children, Inc. and comparable local partnerships, which have as their missions the development of a comprehensive, long-range strategic plan for early childhood development and the provision, through public and private means, of high-quality early childhood education and development services for children and families. It is the intent of the General Assembly that communities be given the maximum flexibility and discretion practicable in developing their ~~plans.~~ plans while remaining subject to the approval of the North Carolina Partnership and accountable to the North Carolina Partnership and to the General Assembly for their plans and for the programmatic and fiscal integrity of the programs and services provided to implement them.

(b) The following definitions apply in this Part:

(1) Board of Directors. – The Board of Directors of the North Carolina Partnership for Children, Inc.

(2) Department. – The Department of Health and Human Services.

(2.1) Early Childhood. – Birth through five years of age.

(3) Local Partnership. – A ~~local,~~ county or regional private, nonprofit 501(c)(3) organization established to coordinate a local demonstration ~~project~~ project, to provide ongoing analyses of their local needs that must be met to ensure that the developmental needs of children are met in order to prepare them to begin school healthy and ready to succeed, and, in consultation with the North Carolina Partnership and subject to the approval of the North Carolina Partnership, to provide programs and services to meet these needs under this ~~Part.~~ Part, while remaining accountable for the programmatic and fiscal integrity of their programs and services to the North Carolina Partnership.

(4) North Carolina Partnership. – The North Carolina Partnership for Children, Inc.

(5) Secretary. – The Secretary of Health and Human Services.

"**§ 143B-168.12. North Carolina Partnership for Children, Inc.; conditions.**

(a) In order to receive State funds, the following conditions shall be met:

(1) The North Carolina Partnership shall have a Board of Directors consisting of the following ~~38~~ 25 members:

a. The Secretary of Health and Human Services, ex ~~officio;~~ officio, or the Secretary's designee;

b. Repealed by Session Laws 1997, c. 443, s. 11A.105.

c. The Superintendent of Public Instruction, ex ~~officio;~~ officio, or the Superintendent's designee;

d. The President of the Department of Community Colleges, ex ~~officio;~~ officio, or the President's designee;

e. ~~One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th Congressional Districts, appointed by the President Pro Tempore of the Senate;~~ Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;

f. ~~One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th Congressional Districts, appointed by the Speaker of the House of Representatives;~~ Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;

g. ~~Seventeen~~ Twelve members, ~~of whom four~~ appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the

~~Governor;~~ Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;

~~h.~~h1. ~~The President Pro Tempore of the Senate, or a designee;~~ The Chair of the North Carolina Partnership Board shall be appointed by the Governor;

~~i. The Speaker of the House of Representatives, or a designee;~~

j. ~~The~~ One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the ~~Senate, or a designee;~~ Senate;

k. ~~The~~ One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of ~~Representatives, or a designee;~~ Representatives;

l. ~~The~~ One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the ~~Senate, or a designee;~~ Senate; and

m. ~~The~~ One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of ~~Representatives, or a designee.~~ Representatives.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the

Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local board, which policy shall include the requirement that all local board members be residents of the county or the partnership region they are representing. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds.

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.

(3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are ~~selected.~~ selected and shall approve the ongoing plans, programs, and services developed and implemented by the local partnerships and hold the local partnerships accountable for the financial and programmatic integrity of the programs and services.

In the event that the North Carolina Partnership determines that a local partnership is not fulfilling its mandate to provide programs and services designed to meet the developmental needs of children in order to prepare them to begin school healthy and ready to succeed and is not being accountable for the programmatic and fiscal integrity of its programs and services, the North Carolina Partnership may suspend all funds to the partnership until the partnership demonstrates that these

defects are corrected. Further, at its discretion, the North Carolina Partnership may assume the managerial responsibilities for the partnership's programs and services until the North Carolina Partnership determines that it is appropriate to return the programs and services to the local partnership.

(4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.

(5) The North Carolina Partnership shall develop ~~and implement~~ a centralized accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. The following local partnerships shall be required to participate in the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:

a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and

b. Local partnerships which are in the first two years of operation following their selection, except for those created by combination with existing local partnerships. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting system, internal controls, and contract management systems developed by the North Carolina Partnership.

Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual

financial audit reveals serious deficiencies in accounting or contract management.

(6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.

(7) The North Carolina Partnership may adjust its allocations on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local partnerships rated 'superior' may receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated 'satisfactory' may receive their annual funding allocation. Local partnerships rated 'needs improvement' may receive up to ninety percent (90%) of their annual funding allocation.

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

(8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. ~~Members shall serve two-year terms and shall not serve more than two consecutive terms.~~ Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

(9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the

General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide.

(b) The North Carolina Partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the North Carolina Partnership.

(c) The North Carolina Partnership shall require each local partnership to place in each of its contracts a statement that the contract is subject to monitoring by the local partnership and North Carolina Partnership, that contractors and subcontractors shall be fidelity bonded, unless the contractors or subcontractors receive less than one hundred thousand dollars ($100,000) or unless the contract is for child care subsidy services, that contractors and subcontractors are subject to audit oversight by the State Auditor, and that contractors and subcontractors shall be audited as required by G.S. 143-6.1. Organizations subject to G.S. 159-34 shall be exempt from this requirement.

"**§ 143B-168.13. Implementation of program; duties of Department and Secretary.**

~~(a)~~ The Department shall:

~~(1) Develop a statewide process, in cooperation with the North Carolina Partnership, to select the local demonstration projects. The first 12 local demonstration projects developed and implemented shall be located in the 12 congressional districts, one to a district. The locations of subsequent selections of local demonstration projects shall represent the various geographic areas of the State.~~

~~(2)~~(1a) Develop and conduct a statewide needs and resource assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation with the North Carolina Partnership and with the local partnerships. The Department may contract with an independent firm to conduct the needs assessment. The needs assessment shall be conducted in a way which enables the Department and the North Carolina Partnership to review, and revise as necessary, the total program cost estimate and methodology. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the North Carolina Partnership. A report of the findings of the needs assessment shall be presented to the General Assembly prior ~~to the beginning of the 1999 Session~~ to April 1, 1999, and every three years after that date.

(2a) Develop and maintain an automated, publicly accessible database of all regulated child care programs.

(3) Repealed by Session Laws 1997, c. 443, s. 11.55(m).

(4) Adopt, in cooperation with the North Carolina Partnership, any rules necessary to implement this Part, including rules to ensure that State

leave policy is not applied to the North Carolina Partnership and the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the Department may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.

(5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(c).

(6) Annually update its funding formula using the most recent data available. These amounts shall serve as the basis for determining 'full funding' amounts for each local partnership.

~~(b) The Secretary shall approve, upon recommendation of the North Carolina Partnership, all allocations of State funds to local demonstration projects. The Secretary also shall approve all local plans.~~

"**§ 143B-168.14. Local partnerships; conditions.**

(a) In order to receive State funds, the following conditions shall be met:

(1) Each local ~~demonstration project shall be coordinated by a new local~~ partnership ~~responsible for developing~~ shall develop a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. ~~The board of directors of each local partnership shall consist of members including representatives of public and private nonprofit health and human service agencies, child care providers, the business community, foundations, county and municipal governments, local education units, and families. The Department, in cooperation with the North Carolina Partnership, may specify in its requests for applications the local agencies that shall be represented on a local board of directors.~~ No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part. The Board of the North Carolina Partnership may authorize exceptions to this eligibility requirement.

(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.

(3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7A-517.

(4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the North Carolina Partnership.

(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the local partnerships.

"**§ 143B-168.15. Use of State funds.**

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed,. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the total funds allocated to all local partnerships for direct services, seventy percent (70%) shall be used in child care-related activities and programs which improve access to child care services, develop new child care services, or improve the quality of child care services in all settings.

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State

or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:

(1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.

(2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.

(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section.

"**§ 143B-168.16. Home-centered services; consent.**

No home-centered services including home visits or in-home parenting training shall be allowed under this Part unless the written, informed consent of the participating parents authorizing the home-centered services is first obtained by the local partnership, educational institution, local school administrative unit, private school, not-for-profit organization, governmental agency, or other entity that is conducting the parenting program. The participating parents may revoke at any time their consent for the home-centered services.

The consent form shall contain a clear description of the program including (i) the activities and information to be provided by the program during the home visits, (ii) the number of expected home visits, (iii) any responsibilities of the parents, (iv) the fact, if applicable, that a record will be made and maintained on the home visits, (v) the fact that the parents may revoke at any time the consent, and (vi) any other information as may be necessary to convey to the parents a clear understanding of the program.

Parents at all times shall have access to any record maintained on home-centered services provided to their family and may place in that record a written response to any information with which they disagree that is in the record."

(b) Section 11.55 of S.L. 1997-443 reads as rewritten:

"Section 11.55. (a) The General Assembly finds that it is essential to continue developing comprehensive programs that provide high quality early childhood education and development services locally for children and their families. The General Assembly intends to expand the Early Childhood Education and Development Initiatives Program (the 'Program') in a manner which ensures quality assurance and performance-based accountability for the Program.

(b) Notwithstanding any provision of Part 10B of Article 3 of Chapter 143B of the General Statutes or any other provision of law or policy, the Department of ~~Human Resources~~ Health and Human Services and the North Carolina Partnership for Children, Inc., jointly shall continue to implement the recommendations contained in the Smart Start Performance Audit prepared pursuant to Section 27A(1)b. of Chapter 324 of the

1995 Session Laws, as modified by Section 24.29 of Chapter 18 of the Session Laws, Second Extra Session 1996. The North Carolina Partnership for Children, Inc., shall continue to report quarterly to the Joint Legislative Commission on Governmental Operations on its progress toward full implementation of the modified audit recommendations.

(c) The Joint Legislative Commission on Governmental Operations shall, consistent with current law, continue to be the legislative oversight body for the Program. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint a subcommittee of the Joint Legislative Commission on Governmental Operations to carry out this function. This subcommittee may conduct all initial reviews of plans, reports, and budgets relating to the Program and shall make recommendations to the Joint Legislative Commission on Governmental Operations.

(d) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. What counts as administrative costs shall be as defined in the Smart Start Performance Audit.

(e) Any local partnership, before receiving State funds, shall be required annually to submit a plan and budget for State funds for appropriate programs to the North Carolina Partnership for Children, Inc., and the Joint Legislative Commission on Governmental Operations. State funds to implement the programs shall not be allocated to a local partnership until the program plan is approved by the North Carolina Partnership for Children, Inc.

(f) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on ~~all~~ contract amounts ~~of one thousand five hundred dollars ($1,500) and above, and, where practicable, on contracts for amounts of less than one thousand five hundred dollars ($1,500).~~ as follows:

(1) For amounts of five thousand dollars ($5,000) or less, three verbal quotes;

(2) For amounts greater than five thousand dollars ($5,000) but less than fifteen thousand dollars ($15,000), three written quotes;

(3) For amounts of fifteen thousand dollars ($15,000) or more but less than forty thousand dollars ($40,000), a request for proposal process; and

(4) For amounts of forty thousand dollars ($40,000) or more, request for proposal process and advertising in a major newspaper.

(g) The role of the North Carolina Partnership for Children, Inc., shall continue to be expanded to incorporate all the aspects of the new role determined for the Partnership in the Smart Start Performance Audit recommendations and to provide technical assistance to local partnerships, assess outcome goals for children and families, ensure that statewide goals and legislative guidelines are being met, help establish policies and outcome measures, obtain non-State resources for early childhood and family services, and document and verify the cumulative contributions received by the partnerships.

(h) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the Program in each fiscal year of the biennium as follows: contributions of cash equal to at least ten percent (10%) and in-kind donated resources equal to no more than ten percent (10%) for a total match requirement of twenty percent (20%) for each fiscal year. Only in-kind contributions that are quantifiable, as determined in the Smart Start Performance Audit, shall be applied to the in-kind match requirement. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records;
(2) If in-kind, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations;
(3) Not include expenses funded by State funds;
(4) Be supplemental to and not supplant preexisting resources for related program activities;
(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives;
(6) Be otherwise allowable under federal or State law;
(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children or the local partnership; and
(8) Be reported to the North Carolina Partnership for Children or the local partnership by the contractor in the same manner as reimbursable expenses.

The North Carolina Partnership shall establish uniform guidelines and reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection.

Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for the next fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations pursuant to G.S. 143B-168.13(5) in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

(i) Counties participating in the Program may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with

the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure or registration pursuant to Article 7 of Chapter 110 of the General Statutes, with other applicable requirements of State law or rule, including rules adopted for nonregistered child care by the Social Services Commission, and with applicable federal regulations.

(j) The Department of ~~Human Resources~~ Health and Human Services shall continue to implement the performance-based evaluation system.

(k) The Frank Porter Graham Child Development Center shall continue its evaluation of the Program. Notwithstanding any policy to the contrary, the Frank Porter Graham Child Development Center may use any method legally available to it to track children who are participating or who have participated in any Early Childhood Education and Development Initiative in order to carry out its ongoing evaluation of the Program.

~~(l) G.S. 143B-168.12(a) reads as rewritten:~~

~~"(a) In order to receive State funds, the following conditions shall be met:~~

~~(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 38 members:~~

~~a. The Secretary of Health and Human Services, ex officio;~~

~~b. Repealed;~~

~~c. The Superintendent of Public Instruction, ex officio;~~

~~d. The President of the Department of Community Colleges, ex officio;~~

~~e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th Congressional Districts, appointed by the President Pro Tempore of the Senate;~~

~~f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th Congressional Districts, appointed by the Speaker of the House of Representatives;~~

~~g. Seventeen members, of whom four shall be members of the party other than the Governor's party, appointed by the Governor;~~

~~h. The President Pro Tempore of the Senate, or a designee;~~

~~i. The Speaker of the House of Representatives, or a designee;~~

~~j. The Majority Leader of the Senate, or a designee;~~

~~k. The Majority Leader of the House of Representatives, or a designee;~~

~~l. The Minority Leader of the Senate, or a designee; and~~

~~m. The Minority Leader of the House of Representatives, or a designee.~~

~~(2) The North Carolina Partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.~~

~~(3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected.~~

~~(4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.~~

~~(5) The North Carolina Partnership shall develop and implement a centralized accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. The following local partnerships shall be required to participate in the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:~~

~~a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and~~

~~b. Local partnerships which are in the first two years of operation following their selection, except for those created by combination with existing local partnerships. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting system, internal controls, and contract management systems developed by the North Carolina Partnership.~~

~~Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual financial audit reveals serious deficiencies in accounting or contract management.~~

~~(6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.~~

~~(7) The North Carolina Partnership may adjust its allocations on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.~~

~~The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.~~

~~On the basis of performance assessments, local partnerships annually shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local partnerships rated 'superior' may receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated 'satisfactory' may receive their annual funding allocation. Local partnerships rated 'needs improvement'may receive ninety percent (90%) of their annual funding allocation.~~

~~The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.~~

~~(8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall serve two-year terms and shall not serve more than two consecutive terms. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.~~

~~(9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the~~

~~allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide."~~

~~(m) G.S. 143B-168.13(a) reads as rewritten:~~

~~"(a) The Department shall:~~

~~(1) Develop a statewide process, in cooperation with the North Carolina Partnership, to select the local demonstration projects. The first 12 local demonstration projects developed and implemented shall be located in the 12 congressional districts, one to a district. The locations of subsequent selections of local demonstration projects shall represent the various geographic areas of the State.~~

~~(2) Develop and conduct a statewide needs and resource assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation with the North Carolina Partnership and with the local partnerships. The Department may contract with an independent firm to conduct the needs assessment. The needs assessment shall be conducted in a way which enables the Department and the North Carolina Partnership to review, and revise as necessary, the total program cost estimate and methodology. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the North Carolina Partnership. A report of the findings of the needs assessment shall be presented to the General Assembly prior to the beginning of the 1999 Session and every three years after that date.~~

~~(2a) Develop and maintain an automated, publicly accessible database of all regulated child care programs.~~

~~(3) Repealed.~~

~~(4) Adopt, in cooperation with the North Carolina Partnership, any rules necessary to implement this Part, including rules to ensure that State leave policy is not applied to the North Carolina Partnership and the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the Department may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.~~

~~(5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(c).~~

~~(6) Annually update its funding formula using the most recent data available. These amounts shall serve as the basis for determining 'full funding' amounts for each local partnership."~~

~~(n) G.S. 143B-168.15 reads as rewritten:~~

~~"**§ 143B-168.15. Use of State funds.**~~

~~(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these~~

~~services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.~~

~~(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the total funds allocated to partnerships for direct services, seventy percent (70%) shall be used in child care-related activities and programs which improve access to child care services, develop new child care services, or improve the quality of child care services in all settings.~~

~~(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.~~

~~(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.~~

~~(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.~~

~~(f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:~~

~~(1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.~~

~~(2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over~~

~~may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.~~

~~(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon the local waiting list for subsidized child care or the total percentage of children served whose families are income eligible for subsidized child care, the North Carolina Partnership determines a higher percentage is justified."~~

(o) The North Carolina Partnership shall not apply the subsidy requirement in G.S. 143B-168.15(g) to the 45 counties eligible to receive planning funds in 1997-98.

(p) There is allocated from the funds appropriated to the Department of ~~Human Resources,~~ Health and Human Services, Division of Child Development, in this act, the sum of twenty-two million two hundred fifty-eight thousand six hundred twenty-five dollars ($22,258,625) for the 1997-98 fiscal year and the sum of twenty-five million two hundred ninety-eight thousand eight hundred thirty-eight dollars ($25,298,838) for the 1998-99 fiscal year to be used as follows:

(1) Of the 35 partnerships existing as of the 1996-97 fiscal year, funds for direct services shall be increased a total of $15,215,912 for the 1997-98 fiscal year and $15,215,912 for the 1998-99 fiscal year. The North Carolina Partnership for Children, Inc., may use up to $1,500,000 of these funds in the 1997-98 fiscal year as planning funds for the remaining 45 unfunded counties.

(2) For the 12 new partnerships planned for as of the 1996-97 fiscal year, funds shall be $5,252,713 for the 1997-98 fiscal year and $9,142,926 for the 1998-99 fiscal year to administer and deliver direct services.

(3) The North Carolina Partnership for Children, Inc., shall receive an additional $700,000 in the 1997-98 fiscal year and an additional $700,000 in the 1998-99 fiscal year for the State-level administration of the Program.

(4) The Department of ~~Human Resources~~ Health and Human Services shall receive $750,000 in nonrecurring funds in the 1997-98 fiscal year to conduct a statewide needs and resources assessment.

(5) The Department of ~~Human Resources~~ Health and Human Services shall receive $100,000 in nonrecurring funds in the 1997-98 fiscal year to complete the automation of a database of all regulated child care programs.

(6) The Department of ~~Human Resources~~ Health and Human Services shall receive $240,000 in the 1997-98 fiscal year and $240,000 in the 1998-99 fiscal year for professional development programs.

(p1) Effective October 1, 1998, in addition to the funds allocated for Early Childhood Education and Development Initiatives in subsection (p) of this section, of the funds appropriated to the Department of Health and Human Services, Division of

Child Development, for fiscal year 1998-99, for Early Childhood Education and Development Initiatives, the sum of forty-two million five hundred thousand dollars ($42,500,000) shall be used to administer and deliver direct services in all 100 counties. Of this amount, the North Carolina Partnership for Children, Inc., may use up to two million dollars ($2,000,000) for State level administration of the program.

(q) Of the funds appropriated to the Department of ~~Human Resources~~ Health and Human Services for the Program for the 1997-99 biennium, the Frank Porter Graham Child Development Center shall receive the sum of eight hundred fifty thousand dollars ($850,000) for the 1997-98 fiscal year and the sum of eight hundred fifty thousand dollars ($850,000) for the 1998-99 fiscal year."

(c) As a condition of receiving State funds, the North Carolina Partnership for Children, Inc., must amend its Articles of Incorporation or bylaws, as appropriate, to terminate the terms of all existing members of the Board of Directors of the North Carolina Partnership for Children, Inc., no later than 60 days after this act becomes law, so new members may be appointed under G.S. 143B-16.12(a) as rewritten by this section. This action may be taken under Article 10 of Chapter 55A of the General Statutes notwithstanding any provision of Article 8 of Chapter 55A of the General Statutes. Effective when this act becomes law, no member of the North Carolina General Assembly may serve on the Board of Directors of the North Carolina Partnership for Children, Inc., or on the board of directors of a local partnership, and in calculating any quorum requirements those seats shall be excluded.

(d) The General Assembly finds that two important, recent studies of the Early Childhood Education and Development Initiatives Program have stressed the potential benefits of regionalization.

The North Carolina Partnership shall review the findings and recommendations of the Coopers and Lybrand Smart Start Program Performance Audit Final Report, dated April 1996, and the McGladrey and Pullen Study of Administrative Structure, dated June 24, 1998.

The North Carolina Partnership shall develop a regionalization plan and report this regionalization plan to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Human Resources, and the Fiscal Research Division by April 15, 1999.

(e) G.S. 120-123 is amended by adding a new subdivision to read:

"(69) The North Carolina Partnership for Children, Inc., established pursuant to Part 10B of Article 3 of Chapter 143B of the General Statutes, and all local partnerships established pursuant to this Part."

(f) G.S. 143B-168.12(c), as written in subsection (a) of this section, applies to contracts entered into on and after the date this act becomes law. This section is effective when this act becomes law.

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

TEACH PROGRAM

Section 12.38. Of the funds appropriated in this act to the Department of Health and Human Services for the Teacher Education and Compensation Helps (TEACH) Program, the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year shall be used to establish a capital fund for TEACH, provided that these funds are matched by expenditures of private funds at a ratio of two private dollars for every one dollar expended from these funds, and provided further that expenses related to office space are not included in the costs charged to the State for the administration of the Program.

SUBPART 8. YOUTH SERVICES

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DYS TRAINING SCHOOLS EVALUATION

Section 12.39. (a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four hundred seventy-five thousand dollars ($475,000) shall be used to ensure that multidisciplinary diagnoses and evaluations, as provided for in G.S. 115C-113, are made on all students in training schools operated by the Division of Youth Services and that the requisite resources and services are provided for all DYS training school students who are identified as children with special needs. The Department shall use these funds to provide evaluations, resources, and services, but shall not reduce current DYS services. Lapsed salary funds shall not be used to create new permanent positions.

(b) Within 30 days of adjournment sine die of the 1997 General Assembly, the Department shall report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the line items in the Department's budget from which funds allocated under this section will be taken.

SUBPART 9. HEALTH SERVICES

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

NC HEALTHY START FOUNDATION/REPORTING

Section 12.40. Section 15.29 of S.L. 1997-443 reads as rewritten:

"Section 15.29. The North Carolina Healthy Start Foundation shall:

(1) By ~~January~~ April 15, ~~1998,~~ 1999, and more frequently as requested, report to the ~~Joint Legislative Commission on Governmental Operations~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the following information:

a. State fiscal year ~~1996-97~~ 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year ~~1996-97~~ 1997-98 itemized expenditures and fund sources;

c. State fiscal year ~~1997-98~~ 1998-99 planned activities, objectives, and accomplishments including actual results through ~~December~~ March 31, ~~1997;~~ 1999; and

d. State fiscal year ~~1997-98~~ 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through ~~December~~ March 31, ~~1997.~~ 1999.

(2) Provide to the Fiscal Research Division a copy of the Foundation's annual audited financial statement within 30 days of issuance of the statement."

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

PREVENT BLINDNESS, INC./REPORTING

Section 12.41. Section 15.33 of S.L. 1997-443 reads as rewritten:

"Section 15.33. Prevent Blindness, Inc., shall:

(1) By ~~January~~ April 15, ~~1998,~~ 1999, and more frequently as requested, report to the ~~Joint Legislative Commission on Governmental Operations~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the following information:

a. State fiscal year ~~1996-97~~ 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year ~~1996-97~~ 1997-98 itemized expenditures and fund sources;

c. State fiscal year ~~1997-98~~ 1998-99 planned activities, objectives, and accomplishments including actual results through ~~December~~ March 31, ~~1997;~~ 1999; and

d. State fiscal year ~~1997-98~~ 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through ~~December~~ March 31, ~~1997.~~ 1999.

(2) Provide to the Fiscal Research Division a copy of the Prevent Blindness, Inc., annual audited financial statement within 30 days of issuance of the statement."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

WIC PROGRAM FUNDS

Section 12.42. Section 15.27 of S.L. 1997-443 reads as rewritten:

"Section 15.27. Of the funds appropriated to the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for the Women, Infants, and Children (WIC) Program, the sum of one million two hundred eighty thousand

dollars ($1,280,000) for the 1997-98 fiscal year and the sum of one million two hundred eighty thousand dollars ($1,280,000) for the 1998-99 fiscal year shall, if sufficient federal food funds are available, be used for the WIC Program as follows:

(1) Not more than $500,000 in each fiscal year shall be used to establish new WIC Programs in Head Start or other private or public nonprofit agencies to serve additional mothers, infants, and children. The Department shall utilize these funds for local program operations including staff to provide eligibility determination, nutrition education, and health care referrals. In selecting the new WIC Programs, the Department shall consider accessibility to the target population including location and hours of operation.

(2) Not more than $250,000 in each fiscal year shall be used to renovate facilities of existing programs where space constraints limit program expansion, and to fund rental costs in areas where accessible donated space is not available. In selecting the facilities the Department shall consider accessibility to the target population including location and extended hours of operation. In determining whether to fund rental of space, the Department shall ensure that options for using donated accessible space have been considered. Not more than $75,000 of funds allocated under this subdivision for each fiscal year shall be used for rental of space.

(3) Not more than $300,000 in each fiscal year shall be used to purchase physician-prescribed special formulas and nutritional supplements for infants, children, and women.

(4) Not more than ~~$60,000~~ $180,000 in ~~each~~ the 1998-99 fiscal year shall be used to provide the required State match to the WIC farmers' market project.

(5) Not more than ~~$170,000~~ $50,000 in ~~each~~ the 1998-99 fiscal year shall be used for the purpose of establishing and maintaining a Public Health Nutritionist Internship Program.

If sufficient federal food funds are not available then funds appropriated for the WIC Program under this section shall be used to supplement federal food funds and any balance in funds remaining after the supplemental use shall be used in accordance with subdivisions (1) through (5) of this section."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

HEALTHY MOTHERS/HEALTHY CHILDREN PILOT PROGRAM

Section 12.43. (a) The Department of Health and Human Services may initiate a Healthy Mothers/Healthy Children Grant Program in up to six local health departments. The Department may consolidate federal Maternal and Child Health Block Grant funds and State funds appropriated for the Maternal Health, Women's Preventive Health, Child Health, Child Service Coordination and Immunization programs into a Healthy Mothers/Healthy Children Grant Program for each participating local health department. Local health departments participating in the

Healthy Mothers/Healthy Children Grant Program may use grant funds to do any of the following:

(1) Improve the health status of women of childbearing age by expanding preventive health services and reducing and/or controlling health risk factors.

(2) Reduce infant mortality and morbidity by preventing high-risk pregnancies, improving the health status of women before pregnancy, improving access to prenatal care, reducing prematurity, and improving survival rates of preterm and other high-risk infants.

(3) Reduce mortality and morbidity among children and youth by reducing the incidence of communicable disease and other preventable conditions, the occurrence and severity of injuries, the incidence of genetic disorders, and the incidence of chronic illnesses and developmental disabilities.

(4) Enhance the health and functional status of children and youth with chronic handicapping conditions by reducing the severity of the conditions through the provision of early identification, diagnosis, treatment, and care coordination services.

(b) The Department shall not include federal categorical funds, competitive special project funds, and funds for regionalized services in grant funds awarded to local health departments under the Healthy Mothers/Healthy Children Grant Program.

(c) The Department shall require participating local health departments to identify and report expenditures by program in order to monitor and track the use of Healthy Mothers/Healthy Children Grant Program funds to meet federal and State reporting requirements. In addition, the Department shall require local health departments to report on the administrative, programmatic, and health outcome benefits which are realized by providing localities greater flexibility.

(d) The Department shall report to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources on the implementation of the Healthy Mothers/Healthy Children Grant Program not later than April 1, 1999.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD FATALITY TASK FORCE

Section 12.44. (a) Subsections (b), (c), and (d) of Section 285 of Chapter 321 of the 1993 Session Laws are repealed.

(b) G.S. 143-573(c) reads as rewritten:

"(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. ~~The Speaker of the House of Representatives shall call the first meeting no later than October 1, 1991. At the first meeting the members shall elect a chair who shall preside for the duration of the Task Force.~~ Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as

member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

(c) G.S. 143-574 reads as rewritten:

"**§ 143-574. Task Force – duties.**

The Task Force shall:

(1) Undertake a statistical study of the incidence and causes of child deaths in this State ~~during 1988 and 1989,~~ and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;

(2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing local teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;

(3) Receive and consider reports from the State Team; and

(4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate."

(d) G.S. 143-577 reads as rewritten:

"**§ 143-577. Task Force – reports.**

~~(a)~~ The Task Force shall ~~provide a preliminary~~ report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the ~~1992 Session of the 1991~~ General Assembly. ~~This preliminary~~ The report shall contain at least a summary of ~~preliminary~~ the conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

~~(b) The Task Force shall make a written report to the Governor and General Assembly within the first week of the convening of the 1997 General Assembly. The Task Force may make a written report to the Governor and General Assembly within one week of the convening of the 1998 Regular Session of the 1997 General Assembly. The Task Force shall make a final written report to the Governor and General Assembly~~

~~within the first week of the convening of the 1999 General Assembly. The final report shall include final conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.~~

~~(c) After the Task Force provides its final report to the Governor and General Assembly, the Task Force shall cease to be in existence~~."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MATERNAL OUTREACH

Section 12.45. (a) The Department of Health and Human Services shall ensure that local communities who receive State funds for intensive home visiting programs, including the Olds and Healthy Families America models, collect and report data to the Department which will allow a valid and reliable evaluation of the long-term effectiveness of this intervention in improving maternal and child outcomes. The Department shall design a standard reporting system for local programs to use in supplying this data. At a minimum, the data should provide information on the effect of prenatal and infancy home visits by nurses on all of the following:

(1) Preterm delivery, low-birth weight, and infant morbidity/mortality.
(2) Childhood injuries.
(3) Childhood maltreatment.
(4) Immunizations.
(5) Mental development and behavioral problems.

The data shall also provide information on maternal life course, as measured by:

(6) Subsequent pregnancy.
(7) Educational achievement.
(8) Labor force participation.
(9) Use of public assistance programs.

(b) The Department shall report on its plans for developing and implementing a scientifically sound methodology for evaluating these programs by February 1, 1999, to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Kinnaird, Cooper, Dannelly, Phillips, Purcell

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Section 12.46A. (a) The Department of Health and Human Services shall develop and implement a cost-containment plan for the purpose of serving additional clients of the HIV Medications Program. In developing the Plan, the Department shall do the following:

(1) Explore the feasibility of obtaining a Medicaid expansion waiver;

(2) Estimate the potential cost savings to the State of participating in the 340B Drug Pricing Program by studying various ways of adhering to program requirements while also realizing cost savings;

(3) Examine, for possible adoption, ADAP and other similar program cost-saving strategies in other states, including, but not limited to, restrictive formularies, prescription limitations, insurance continuity, and insurance purchasing programs, and biannual or quarterly reauthorizations; and

(4) Conduct other activities that will assist in the development of a viable plan.

(b) The Department shall implement cost-containment programs or mechanisms, other than pharmaceutical rebates, by January 1, 1999, and shall report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 15, 1999, on the following:

(1) The realized and projected savings;

(2) Findings from subdivisions (1), (2), and (3) of subsection (a) of this section; and

(3) Recommendations for legislative action.

(c) Savings realized through cost-containment measures shall be used to serve additional ADAP participants in fiscal year 1998-99. Funds not expended for authorized program costs shall revert to the General Fund.

(d) The Department shall also develop a comprehensive information system on AIDS/HIV clients receiving services from the State. This system shall include information on program usage patterns of ADAP participants, including, but not limited to, frequency of prescription purchases, and types of medications prescribed. The Department shall also develop a plan for monitoring patient compliance with physician treatment recommendations. In developing the plan, the Department shall identify ways of obtaining information without interfering with physician-patient confidentiality. The Department shall report on this plan to the members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources not later than March 15, 1999.

Requested by: Senators Odom, Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

CANCER CONTROL ADVISORY COMMITTEE/ADDITIONAL MEMBERS

Section 12.48. (a) Effective December 1, 1998, G.S. 130A-33.50 reads as rewritten:

"**§ 130A-33.50. Advisory Committee on Cancer Coordination and Control established; membership, compensation.**

(a) The Advisory Committee on Cancer Coordination and Control is established in the Department.

(b) The Committee shall have ~~24~~ up to 34 members, including the Secretary of the Department or the Secretary's designee. The members of the Committee shall elect a

chair and vice-chair from among the Committee membership. The Committee shall meet at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. ~~Two~~ Four of the members shall be cancer survivors, ~~one~~ two of whom shall be appointed by the Speaker of the House of Representatives, and ~~one~~ two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

(1) One member from the Department of Environment and Natural Resources;

(2) Three members, one from each of the following: the Department, the Department of Public Instruction, and the North Carolina Community College System;

(3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;

(4) One member who is an oncology nurse representing the North Carolina Nurses Association;

(5) One member representing the Cancer Committee of the North Carolina Medical Society;

(6) One member representing the Old North State Medical Society;

(7) One member representing the American Cancer Society, North Carolina Division, Inc.;

(8) One member representing the North Carolina Hospital Association;

(9) One member representing the North Carolina Association of Local Health Directors;

(10) One member who is a primary care physician licensed to practice medicine in North ~~Carolina.~~ Carolina;

(11) One member representing the American College of Surgeons;

(12) One member representing the North Carolina Oncology Society;

(13) One member representing the Association of North Carolina Cancer Registrars;

(14) One member representing the Medical Directors of the North Carolina Association of Health Plans; and

(15) Up to four additional members at large.

Except for the Secretary, the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. ~~However, the following appointees shall serve initial two-year terms: two of the legislators appointed by the Speaker of the House of Representatives; one of the legislators appointed by the President Pro Tempore of the Senate; the cancer survivor appointed by the President Pro Tempore of the Senate; and the members representing the Department, the Department of Public Instruction, the University of North Carolina at Chapel Hill School of~~

~~Medicine, the Bowman Gray School of Medicine, the Cancer Committee of the North Carolina Medical Society, the Old North State Medical Society, the North Carolina Hospital Association, and the North Carolina Association of Local Health Directors.~~ The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term.

(c) The Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor shall make their appointments to the Committee not later than 30 days after the adjournment of the 1993 Regular Session of the General Assembly. A vacancy on the Committee shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(d) To the extent that funds are made available, members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the Committee shall constitute a quorum for the transaction of its business.

(f) The Committee may use funds allocated to it to employ an administrative staff person to assist the Committee in carrying out its duties. The Secretary shall provide clerical and other support staff services needed by the Committee."

(b) The following members appointed to the Committee under subsection (a) of this section shall serve initial two-year terms: the member representing the American College of Surgeons; the member representing the Medical Directors of the North Carolina Association of Health Plans; the additional cancer survivor appointed by the Speaker of the House of Representatives; and two of the four additional members at large.

Requested by: Senators Warren, Martin of Guilford, Plyler, Perdue, Odom, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

HEART DISEASE/STROKE PREVENTION FUNDS

Section 12.49. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Community Health, the sum of three hundred thousand dollars ($300,000) for the 1998-99 fiscal year shall be used for one or more of the following purposes:

(1) To establish the Be Active North Carolina (BANC) Initiative in the Governor's Council on Physical Fitness and Health as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1309, first edition, 1997 General Assembly, Regular Session 1998.

(2) To establish a Cardiovascular Health Data Unit (CVD) in the Department of Health and Human Services as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1310, first edition, 1997 General Assembly, Regular Session 1998.

(3) To establish and implement the North Carolina Strike Out Stroke Project as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1308, first edition, 1997 General Assembly, Regular Session 1998.

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Perdue, Rand, Representatives Gardner, Cansler, Clary, Howard, Daughtry, Holmes, Esposito

HIV/STD PREVENTION SERVICES/EVALUATION AND ACCOUNTABILITY OF GRANTEES

Section 12.51. (a) The Department of Health and Human Services, Division of Epidemiology, shall continue the practice of contracting with community-based organizations, local health departments, and other entities to provide services to high-risk individuals. Contracts shall require quarterly reports to the Department on the entity's use of funds, number of clients served under the contract, details on program expenditures, and any other information needed by the Department to enable it to evaluate the efficiency and effectiveness of the entity's use of funds and provision of services. Effective January 1, 1999, entities under contract with the Department shall provide to the Department, at least annually, a copy of the entity's financial statement and most recent audit report.

(a1) If the entity with which the Department of Health and Human Services contracts in accordance with subsection (a) of this section is a nonprofit organization, then the entity shall also provide the same quarterly report to the appropriate local health department.

(b) The Department of Health and Human Services shall adopt standards for the annual evaluation and certification of entities with which the Department contracts under this section. The evaluation and certification standards shall provide sanctions, including discontinuing of funding, for an entity's failure to comply with DHHS standards and State law. The Department shall adopt the standards not later than April 1, 1999, and the standards shall apply to contracts entered into on and after January 1, 2000.

(c) The Department of Health and Human Services shall report to the House Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources no later than May 1, 1999, on the standards adopted, on entities currently under contract with DHHS, and on those entities' experience in providing effective and efficient services under contract with the Department.

(d) Effective January 1, 2000, the Department of Health and Human Services shall not allocate HIV Prevention Funds to any entity unless the entity has met the certification standards adopted by the Department.

Requested by: Representatives Gardner, Cansler, Clary, Howard, Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell

IMPROVE IMMUNIZATION PROGRAM ACCOUNTABILITY

Section 12.52. (a) The Department of Health and Human Services, Division of Women's and Children's Health, shall develop and implement strategies to improve accountability in the Immunization Program. The Division shall examine and report on the following options for improving Program accountability:

(1) Enhancing the current doses administered reporting system;
(2) Converting to a vaccine replacement system;
(3) Collecting child-specific immunization and Program eligibility information;
(4) Expediting implementation of the North Carolina Immunization Registry;
(5) Conducting site visits to twenty percent (20%) of private providers annually;
(6) Sanctioning providers who fail to comply with Program requirements;
(7) Identifying means to verify and reduce wastage;
(8) Other options that will improve Program accountability.

The Department shall submit its report to the members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources not later than April 1, 1999. This report shall include the Division's recommendations for improving Program accountability and shall identify the resources required to implement these recommendations and to meet State and federal program reporting requirements.

(b) The Department of Health and Human Services shall study the feasibility of changing the vaccine distribution system such that private providers obtain vaccines from the local health department. The study shall include the method that would be used to enable local health departments to obtain sufficient quantities of vaccine, and cost-savings that could be realized in changing from a centralized vaccine distributions system to a decentralized system. The Department shall report its findings and recommendations to the members of the House of Representatives Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources not later than April 1, 1999.

(c) So that greater compliance and accountability by immunization program providers may be achieved as quickly as possible, the Commission for Health Services may adopt temporary rules to impose upon immunization program providers reasonable reporting requirements with respect to immunization activities and appropriate sanctions for failure to comply. The Division of Women's and Children's Health shall include in its report required under subsection (a) of this section requirements imposed under the temporary rules and information on provider compliance.

(d) Effective March 1, 1999, the Division shall require as part of agreements with immunization program providers that the provider pay the cost of vaccine provided to replace vaccine provided under the program that has been wasted by the provider due to the provider's failure to properly store, handle, or rotate vaccine inventory. The Division shall develop and make available to program providers guidelines and technical assistance for the proper storage, handling, and rotation of

vaccine inventory. Not later than January 1, 1999, the Division shall notify all immunization program providers that providers shall be required to pay the cost of vaccine provided to replace vaccine wasted due to provider negligence in the storage, handling, or rotation of inventory. Funds received from providers shall be retained by the Division and used to provide technical assistance to providers and to enhance overall program efficiency.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Senators Weinstein, Albertson, Phillips, Purcell, Dalton

FARMLAND PRESERVATION PILOT PROGRAM

Section 13. The two hundred fifty thousand dollars ($250,000) appropriated in this act to the North Carolina Farmland Preservation Trust Fund, established in G.S. 106-744 and administered by the Commissioner of Agriculture and Consumer Services, for the 1998-99 fiscal year shall be used for a farmland preservation pilot program, whereby these funds shall be used to purchase agricultural conservation easements pursuant to The Farmland Preservation Enabling Act, Article 61 of Chapter 106 of the General Statutes. These funds may also be used for the reasonable costs of administering this pilot program. No later than March 15, 1999, the Department of Agriculture and Consumer Services shall report the results of this pilot program to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. This report shall include an itemized list of agricultural conservation easements purchased under the pilot program, the location of the farmland subject to the easement, and the acreage protected by the easement.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

DUPLIN FAIR AND EXHIBITION CENTER FUNDS

Section 13.1. The one million dollars ($1,000,000) appropriated to the Department of Agriculture and Consumer Services for the 1997-98 fiscal year in S.L. 1997-443 for a Fair and Exhibition Center in Duplin County may be used for an agricultural center that includes fairgrounds, livestock exhibition facilities, multipurpose meeting facilities, and offices for allied federal and local agencies and may be used for professional services related to designing, financing, and procuring these facilities.

Requested by: Senators Martin of Pitt, Weinstein, Representatives Mitchell, Baker, Carpenter

SPECIAL RESERVE FUNDS FOR CERTAIN AGRICULTURAL CENTERS

Section 13.2. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-6.2. Create special revenue funds for certain agricultural centers.**

(a) The Eastern North Carolina Agricultural Center Fund is created within the Department of Agriculture and Consumer Services as a special revenue fund. This

Fund shall consist of receipts from the sale of naming rights to any facility located at the Eastern North Carolina Agricultural Center at Williamston, investments earnings on these moneys, and any gifts, bequests, or grants from any source for the benefit of the Eastern North Carolina Agricultural Center. All interest that accrues to this Fund shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to promote, improve, repair, maintain, or operate the Eastern North Carolina Agricultural Center.

(b) The Southeastern North Carolina Agricultural Center Fund is created within the Department of Agriculture and Consumer Services as a special revenue fund. This Fund shall consist of receipts from the sale of naming rights to any facility located at the Southeastern North Carolina Agricultural Center at Lumberton, investments earnings on these moneys, and any gifts, bequests, or grants from any source for the benefit of the Southeastern North Carolina Agricultural Center. All interest that accrues to this Fund shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to promote, improve, repair, maintain, or operate the Southeastern North Carolina Agricultural Center."

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

UMSTEAD ACT EXEMPTION FOR DEPARTMENT AGRICULTURAL CENTERS AND LIVESTOCK FACILITIES

Section 13.3. G.S. 66-58(b) is amended by inserting the following subdivision:

"(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Hall

GUIDELINES FOR GRANTS FOR LOCAL AGRICULTURAL FAIRS

Section 13.4.The Department of Agriculture and Consumer Services shall adopt guidelines for the disbursement of funds appropriated to the Department for the 1998-99 fiscal year for grants for local agricultural fairs.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

ANIMAL WASTE MANAGEMENT EQUIPMENT GRANTS FOR FAMILY-OWNED DAIRIES

Section 13.5. (a) The funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year for animal waste management equipment grants to farmers of family-owned dairies shall be used for the purchase of equipment that is a component of an animal waste management system and that is used solely for the purpose of transporting, storing, or distributing animal waste. This equipment shall be limited to: pumps, spraying equipment, scrape blades, box

blades, storage equipment, and any transport equipment, including tanks, spreaders, and applicators.

(b) No funds allocated under this section shall be used to enlarge anaerobic lagoons or for the maintenance of anaerobic lagoons.

(c) The Department of Agriculture and Consumer Services shall adopt rules that establish guidelines for disbursing the funds in a fair and equitable manner and any other rules needed to implement this section. Each recipient of grant funds under this section shall enter into a contract with the Department that contains provisions of the loan that are consistent with these guidelines. This contract shall provide for the enforcement of the terms of the contract. This contract shall provide that the recipient continue to operate at the current level of dairy production for a period of at least five years. This contract shall provide that if the recipient reduces the number of dairy cows or ceases operation in fewer than five years, the recipient shall repay the Department of Agriculture and Consumer Services a prorated share of the grant funds received by that recipient.

(d) Only dairies with fewer than 300 dairy cows that were in operation prior to January 1, 1998, are eligible for grants under this section.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

ASSISTANCE FOR SMALL, FAMILY FARMS

Section 13.6. Of the funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year, the sum of fifty thousand dollars ($50,000) shall be used to provide assistance to farmers who operate small, family farms. By March 1, 1999, the Department shall report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division on the use of these funds, including the number and geographic location of the small, family farms assisted through this allocation of funds, the type of assistance provided, and any other information or indicators that demonstrate the overall impact of this allocation of funds.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

GRANTS FOR LOCAL FARMERS' MARKETS

Section 13.7.For the funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year for grants to local nonprofit farmers' markets for the purpose of promoting or selling farm products produced by local small, family-owned farms, the Department shall establish guidelines and procedures for disbursing the grants in a fair and equitable manner. The Department shall adopt any rules needed to implement this section.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

LOAN PROGRAM FOR SMALL, FAMILY-OWNED FARMS

Section 13.8. (a) The funds appropriated in this act to the North Carolina Rural Rehabilitation Corporation within the Department of Agriculture and Consumer Services for the 1998-99 fiscal year shall be used to make loans to those farmers of small, family-owned farms having financial difficulty as shown by their inability to obtain affordable conventional loans from other sources.

(b) Priority for loans from the funds allocated under this section shall be extended for the following small, family-owned farms:

(1) Dairy farms with fewer than 300 dairy cows.

(2) Turkey farms that have lost contracts with integrators for reasons not related to having violated environmental laws or rules.

(3) Swine farms of fewer than 500 swine at any time.

(4) Peach or apple farms that have lost fifty percent (50%) or more of their fruit crop due to frost or freeze damage.

(c) The term of the loans under this section shall not exceed 20 years. These loans shall be provided in accordance with the lending requirements of the North Carolina Rural Rehabilitation Corporation pursuant to Article 2 of Chapter 137 of the General Statutes.

(d) The Department of Agriculture and Consumer Services shall adopt rules to implement this section.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Tolson

LEWIS STEAM POWERED SAWMILL RELOCATION

Section 13.9. The Department of Agriculture and Consumer Services may use up to two hundred twenty-five thousand dollars ($225,000) in available funds for the State fair for the 1998-99 fiscal year for the expenses of relocating the Lewis Steam Powered Sawmill from Pitt County to the State Fairgrounds in Raleigh, restoring and rendering the sawmill operational at its new site, and operating the sawmill.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

POULTRY/RATITE DEALERS REGISTRATION

Section 13.10. (a) G.S. 106-540(3) reads as rewritten:

"(3) Regulate hatching egg dealers, chick dealers, poult dealers, poultry dealers, ratite dealers, and jobbers."

(b) G.S. 106-541 reads as rewritten:

"**§ 106-541. Definitions.**

For the purpose of this ~~Article, a hatchery shall be defined as~~ Article, the following definitions apply:

(1) 'Hatchery' means any establishment that operates hatchery equipment for the production of baby chicks or poults.

(2) ~~A hatching~~ 'Hatching egg dealer, chick ~~dealer or jobber shall mean~~ dealer, or jobber' means any person, ~~firm~~ firm, or corporation that buys

hatching eggs, baby ~~chicks~~ chicks, or turkey poults and sells or offers them for sale.

(3) 'Live poultry or ratite dealer' means a person who sells or offers for sale to the general public live poultry or ratites. Live poultry or ratite dealer does not include persons who sell on their own premises live poultry or ratites that were raised on the same premises.

(4) ~~The term "mixed~~ 'Mixed chicks' or 'assorted chicks' ~~shall mean~~ means chicks produced from eggs from purebred females of a distinct breed mated to a purebred male of a distinct breed.

(5) 'Poultry' means live chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, or turkeys other than chicks or poults.

(6) 'Ratite' has the same meaning as in G.S. 106-549.15."

(c) G.S. 106-542 is amended by adding the following new subsections:

"(b1) It shall be unlawful for any person, firm, or corporation to operate as a live poultry or ratite dealer without first registering with the Department of Agriculture and Consumer Services.

(b2) It shall be unlawful for a specialty market operator, as defined in G.S. 66-250, to knowingly and willfully permit an unregistered poultry or ratite dealer to operate on the premises of the specialty market, as defined in G.S. 66-250, more than 10 days after being notified in writing by the Department of Agriculture and Consumer Services that the dealer is not registered."

(d) G.S. 106-547 reads as rewritten:

"**§ 106-547. Records to be kept.**

Every hatchery, hatching egg dealer, chick ~~dealer~~ dealer, poultry dealer, ratite dealer, or jobber shall keep such records of operation as the regulations of the Department of Agriculture and Consumer Services may require for the proper inspection of said hatchery, ~~dealer~~ dealer, or jobber."

(e) The Department of Agriculture and Consumer Services shall use available funds for the 1998-99 fiscal year for the enforcement of registration requirements for poultry and ratite dealers as provided for in this section.

(f) Sections (a) through (d) of this section become effective January 1, 1999.

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Soles, Representatives Mitchell, Baker, Carpenter, Hunter

NORTH CAROLINA MUSEUM OF FORESTRY

Section 14.1. (a) Part 29 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-344.22. North Carolina Museum of Forestry; satellite museum.**

The Department of Environment and Natural Resources shall establish and administer the North Carolina Museum of Forestry in Columbus County as a satellite museum of the North Carolina State Museum of Natural Sciences."

(b) This section becomes effective December 1, 1998.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Perdue, Plyler, Odom, Representatives Mitchell, Baker, Carpenter, Hunter

MARINE FISHERIES APPEALS PANEL/ROTATE MEETING LOCATIONS

Section 14.2. Section 3(d) of Chapter 576 of the 1993 Session Laws, Regular Session 1994, as amended by Section 1 of Chapter 770 of the 1993 Session Laws, Regular Session 1994, reads as rewritten:

"(d) During the moratorium, there shall be an Appeals Panel to consider license applications for new licenses.

(1) The Appeals Panel shall consist of the Fisheries Director, the Chairman of the Marine Fisheries Commission, and one other person selected by the Cochairs of the Joint Legislative Commission on Seafood and Aquaculture to review hardship or emergency license cases.

(2) The Marine Fisheries Commission shall adopt temporary rules to govern the operation of the Appeals Panel. The Appeals Panel is exempt from the provisions of Article 3 of Chapter 150B of the General Statutes. Decisions of the Appeals Panel shall be subject to judicial review under the provisions of Article 4 of Chapter 150B of the General Statutes.

(3) The Appeals Panel may grant a license if it finds that the denial of the license application would create an emergency or hardship on the individual or the State. In no event shall the Appeals Panel grant a license when the total number of licenses in the specific category would exceed the number of licenses in effect on June 30, 1994.

(4) The Appeals Panel may grant an emergency temporary license due to death, illness, or incapacity, for a period not to exceed 30 days. Emergency temporary licenses shall be limited to vessel crab licenses authorized under G.S. 113-153.1(d).

(5) Beginning in November 1998, the Appeals Panel shall rotate the location of its meetings among the three districts of the State in the following order: Northeastern district, Central district, Southern district, Central district, Northeastern district, Central district, Southern district. The order of rotation is arranged so that the meeting location for every other meeting is in the Central district of the State. The meeting location for November 1998 shall be in the Northeastern district of the State and the rotation of the meeting locations shall continue as provided by this subdivision.

If an applicant who is appealing a licensing decision in accordance with this section requests in writing that the Appeals Panel schedule

the person's hearing when it meets in that person's home district, the Appeals Panel shall calendar that person's hearing for his or her home district as requested."

Requested by: Senators Perdue, Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

FISHERY MANAGEMENT PLANS/REGIONAL ADVISORY COMMITTEE

Section 14.3. G.S. 113-182.1 reads as rewritten:

"**§ 113-182.1. (Effective July 1, 1998) Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under ~~G.S. 143B-289.22.~~ G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

(1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.

(2) Recommend management actions pertaining to the fishery or fisheries.

(3) Include conservation and management measures that prevent overfishing, while achieving, on a continuing basis, the optimal yield from each fishery.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint ~~an Advisory Council.~~ a fishery management plan advisory committee. Each ~~Advisory Council~~ fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Seafood and Aquaculture or the Environmental Review Commission, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. The Commission shall consult with the regional advisory committees regarding the development of any temporary management

measure that the Commission determines to be necessary to ensure the viability of the species or fishery while the plan is being developed and regarding the development of any management measure to implement the plan. Before the Commission adopts a temporary management measure or a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be revised at least once every three years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a ~~Fisheries~~ Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources.

(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission shall concurrently review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Preston, Redwine

UP ADMINISTRATIVE CAP FOR FISHERY RESOURCE GRANT PROGRAM

Section 14.3B. Section 5 of Chapter 633 of the 1995 Session Laws, Regular Session 1996, reads as rewritten:

"Sec. 5. Funds appropriated to the Department of ~~Environment, Health,~~ Environment and Natural Resources for the Fishery Resource Grant Program under Section 2 of Chapter 324 of the 1994 Session Laws shall be transferred to the Board of Governors of The University of North Carolina for the Sea Grant College Program to administer the Fishery Resource Grant Program. The Sea Grant College Program may

use up to ~~twenty-five thousand dollars ($25,000)~~ seventy-five thousand dollars ($75,000) for administrative expenses relating to the Fishery Resource Grant Program."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Mitchell, Baker, Carpenter

GRASSROOTS SCIENCE PROGRAM

Section 14.4. Section 15.1 of S.L. 1997-443 reads as rewritten:

"Section 15.1. Funds appropriated in this act for the Grassroots Science Program shall be allocated as grants-in-aid as follows:

	1997-98	1998-99	
Iredell County Children's Museum	$56,500	~~$50,000~~	$53,935
Museum of Coastal Carolina	$66,750	~~$50,000~~	$59,513
Rocky Mount Children's Museum	$109,750	~~$50,000~~	$84,414
Imagination Station	$111,000	~~$50,000~~	$88,276
Western North Carolina Nature Center	$130,750	~~$15,000~~	$136,321
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$162,500	~~$35,000~~	$114,177
Cape Fear Museum	$188,500	~~$50,000~~	$131,831
Catawba Science Center	$190,500	~~$50,000~~	$115,614
Sci Works Science Center and Environmental Park of Forsyth County	$231,000	~~$50,000~~	$156,434
Natural Science Center of Greensboro	$333,000	~~$50,000~~	$210,232
Schiele Museum of Natural History	$383,750	~~$50,000~~	$250,812
North Carolina Museum of Life and Sciences	$398,750	~~$50,000~~	$274,371
Discovery Place	$887,250	~~$50,000~~	$584,070
TOTAL	$3,250,000	~~600,000~~	$2,260,000

Discovery Place may use up to one hundred thousand dollars ($100,000) of the funds allocated to it in the 1997-98 fiscal year and up to one hundred thousand dollars ($100,000) of the funds allocated to it in the 1998-99 fiscal year to study the feasibility of an expansion of Discovery Place."

Requested by: Senators Martin of Pitt, Perdue, Representatives Mitchell, Baker, Carpenter, Hall

ENVIRONMENTAL EDUCATION GRANTS

Section 14.5. (a) Of the two hundred thousand dollars ($200,000) appropriated in this act to the Department of Environment and Natural Resources for the

1998-99 fiscal year for environmental education grants, up to fifty thousand dollars ($50,000) may be used by the Department for the 1998-99 fiscal year for the costs of administering the environmental education grants. The remainder of these funds shall be used to provide grants to promote environmental education throughout the State. Grants under this section may be awarded to:

(1) Schools, community organizations, and environmental education centers for the development of environmental education library collections; or

(2) School groups for field trips to environmental education centers across the State, provided the activities of the field trip are correlated with the Department of Public Instruction's curriculum objectives.

(b) The Department shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division by January 1, 1999, and again by July 1, 1999, on the grant program. The report shall include a list of amounts awarded and project descriptions for each grant recipient.

Requested by: Senators Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter

PARKS AND RECREATION/NATURAL HERITAGE TRUST FUNDS REPORTING REQUIREMENTS

Section 14.6. (a) G.S. 113-44.15(c) reads as rewritten:

"(c) The North Carolina Parks and Recreation Authority shall report ~~on an annual basis~~ no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the ~~appropriations committees of the House of Representatives and the Senate, and~~ House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research ~~Division~~ Division, and the Environmental Review Commission on allocations from the Trust ~~Fund.~~ Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year."

(b) G.S. 113-77.9(e) reads as rewritten:

"(e) The Secretary shall maintain and ~~annually~~ revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each ~~Trustee and to each House of the General Assembly~~ Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision."

(c) Notwithstanding G.S. 113-44.15(c) as rewritten by subsection (a) of this section, the report due no later than October 1, 1998, shall instead be made no later than December 1, 1998.

Requested by: Senators Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter

NEUSE AND TAR-PAMLICO RIVER BASIN ASSISTANCE

Section 14.6B. The Department of Environment and Natural Resources shall provide progress reports on an initiative by the Division of Soil and Water Conservation to assist local soil and water conservation districts in the Neuse and Tar-Pamlico River Basins in targeting and tracking nutrient reduction efforts of agriculture operations, as well as evaluating the cost-effectiveness of best management practices. The Department shall report on the activities and accomplishments of this initiative by January 15 and April 15, 1999, to the House and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

ACQUISITION PARITY FOR PARKS AND RECREATION TRUST FUND

Section 14.7. G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units on a dollar-for-dollar basis for local park and recreation purposes. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

<u>In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable.</u> Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

CULLASAJA RIVER STUDY FUNDS

Section 14.8. The Department of Environment and Natural Resources shall study the feasibility of including that portion of the Cullasaja River that borders Nantahala National Forest in the North Carolina natural and scenic river system pursuant to Article 3 of Chapter 113A of the General Statutes. No later than March 15, 1999, the Department shall report the results of this study and its recommendations to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Environmental Review Commission.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

CREATE NEW CLASSIFICATION OF ABANDONED WELLS

Section 14.9B. (a) G.S. 87-88(k) is amended by adding a new subdivision to read:

"(3) Abandonment of Water Supply Wells for Other Use: Any water supply well that is removed from service as a potable water supply source may be used for other purposes, including, but not limited to, irrigation, commercial use, or industrial use, and such well is not subject to either subdivision (1) or (2) of this subsection during its use for other purposes."

(b) This section is effective when this act becomes law.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Culp

RANDLEMAN DAM FUNDS DO NOT REVERT

Section 14.9C. Section 8(c) of Chapter 777 of the 1993 Session Laws, as rewritten by Section 26.2 of Chapter 507 of the 1995 Session Laws and Section 15.47(a) of S.L. 1997-443, reads as rewritten:

"(c) All funds appropriated in Chapter 769 of the 1993 Session Laws for the construction of Randleman Dam shall revert to the General Fund on ~~October 1, 1999,~~ October 1, 2000, if construction has not begun before that date."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, McComas

RELOCATION OF MASON'S INLET

Section 14.9D. The County of New Hanover may undertake a project relocating the channel of Mason's Inlet to an alignment that reduces the erosion threat to the north end of the Town of Wrightsville Beach and does not create a threat to the houses located on the south end of Figure Eight Island. Materials dredged during the realignment of the channel that are suitable for beach nourishment shall be placed on the adjacent shorelines of the Town of Wrightsville Beach and Figure Eight Island that are threatened by erosion. The County of New Hanover shall not undertake the project without the concurrence of the Division of Water Resources of the Department of Environment and Natural Resources that the project is necessary and viable.

Upon obtaining the concurrence of the Division of Water Resources of the Department of Environment and Natural Resources, the County of New Hanover may acquire the property necessary to realign the channel of Mason's Inlet to protect the north end of the Town of Wrightsville Beach against the forces of erosion threatening property located at or adjacent to the inlet by purchase, by negotiation, or by condemnation. Should the County of New Hanover elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the sponsor and it may proceed in the manner provided for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes.

Any document prepared to meet the requirements of the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes shall be reviewed simultaneously with consideration of the permit application required pursuant to the Coastal Area Management Act, Article 7 of Chapter 113A of the General Statutes and completed within the time limit established pursuant to G.S. 113A-122(c).

Any Coastal Area Management Act permit issued for the relocation of Mason's Inlet channel pursuant to this provision is exempt from the requirements of G.S. 113A-121.1(c).

Construction of the permitted project shall not start until the project sponsor has obtained all necessary State and federal permits, and no direct State-appropriated funds shall be used for the construction of the realignment of the channel.

Requested by: Senators Phillips, Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter, Allred

EXTEND COMPLIANCE DATE FOR NITROGEN DISCHARGE LIMIT FOR CERTAIN NSW WATERS

Section 14.9H. (a) Section 6.3 of S.L. 1997-458 reads as rewritten:

"Section 6.3. By 1 November 1997, the Environmental Management Commission shall develop a schedule of dates between 1 January 1998 and 1 January 2003, by which ~~existing~~ facilities in existence on 1 July 1997 must comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2), as enacted by Section 6.1 of this act. The schedule of compliance dates shall follow as closely as possible the dates on which permits for existing facilities must be renewed. New facilities and expansions of existing facilities for which an application for a permit is received by the Department of ~~Environment, Health,~~ Environment and Natural Resources on behalf of the Environmental Management Commission prior to the date this act becomes effective shall be treated as existing facilities. For surface waters to which the limit set out in G.S. 143-215.1(c1) applies where nitrogen is not designated by the Commission as a nutrient of concern, the Commission may extend the compliance date established pursuant to this section as provided in G.S. 143-215.1B, which applies to this section notwithstanding the absence of a reference to this section in G.S. 143-215.1B(a). A request to extend a compliance date under this section shall be submitted to the Commission no later than 1 January 1999."

(b) G.S. 143-215.1 is amended by adding a new subsection to read:

"(c6) For surface waters that the Commission classifies as nutrient sensitive waters (NSW) on or after 1 July 1997, the Commission shall establish a date by which facilities that were placed into operation prior to the date on which the surface waters are classified NSW or for which an authorization to construct was issued prior to the date on which the surface waters are classified NSW must comply with subsections (c1) and (c2) of this section. The Commission shall establish the compliance date at the time of the classification. The Commission shall not establish a compliance date that is more than five years after the date of the classification. The Commission may extend the compliance date as provided in G.S. 143-215.1B. A request to extend a compliance date shall be submitted within 120 days of the date on which the Commission reclassifies a surface water body as NSW."

(c) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.1B. Extension of date for compliance with nitrogen and phosphorous discharge limits.**

(a) The Commission may extend a compliance date established under G.S. 143-215.1(c6) only in accordance with the requirements of this section and only upon the request of a person who holds a permit under G.S. 143-215.1 that authorizes a discharge into surface waters to which the limits set out in subsections (c1) or (c2) of G.S. 143-215.1 apply. The Commission shall act on a request for an extension of a compliance date within 120 days after the Commission receives the request. The Commission shall not extend a compliance date if the Commission concludes, on the basis of the scientific data available to the Commission at the time of the request, that the extension will result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 1997 Edition). The Commission shall not extend a compliance date unless the Commission finds that the permit holder needs additional time to develop a calibrated nutrient response model that meets the requirements of this section. If the Commission requires an individual discharge to be limited to a maximum mass load or concentration that is different from those set out in subsections (c1) or (c2) of G.S. 143-215.1, the maximum mass load or concentration shall be substantiated by the model.

(b) The Commission shall determine the extended compliance date by adding to the date on which the Commission grants the extension: (i) two years for the collection of data needed to prepare a calibrated nutrient response model; (ii) a maximum of one year to prepare the calibrated nutrient response model; (iii) the amount of time, if any, that is required for the Commission to develop a nutrient management strategy and to adopt rules or to modify discharge permits to establish maximum mass loads or concentration limits based on the calibrated nutrient response model; and (iv) a maximum of three years to plan, design, finance, and construct a facility that will comply with those maximum mass loads and concentration limits. If the Commission finds that additional time is needed to complete the construction of a facility, the Commission may further extend an extended compliance date by a maximum of two additional years.

(c) Notwithstanding the provisions of G.S. 150B-21.1(a), the Commission may adopt temporary rules to establish maximum mass loads or concentration limits pursuant to this section or as may otherwise be necessary to implement this section.

(d) A permit holder who is granted an extended compliance date under this section shall:

(1) Develop a calibrated nutrient response model in conjunction with other affected parties and in accordance with a timetable for the development of the model that has been approved by the Commission. The model shall be based on current data, capable of predicting the impact of nitrogen and phosphorous in the surface waters, capable of being incorporated into any nutrient management plan developed by the Commission, and approved by the Commission.

(2) Evaluate and optimize the operation of all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section in order to reduce nutrient loading.

(3) Evaluate methods to reduce the total mass load of waste that is discharged from all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section and determine whether these methods are cost-effective.

(4) Evaluate methods to reduce the discharge of treated effluent from all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section; including land application of treated effluent, the use of restored or created wetlands that are not located in a 100-year floodplain to polish treated effluent, and other methods to reuse treated effluent; and determine whether these methods are cost-effective.

(5) Report to the Commission on progress in the development of the calibrated nutrient response model, on efforts to optimize the operation of facilities, on the evaluation of methods of reducing the total mass load of waste, and on the evaluation of methods to reduce the discharge of treated effluent. The Commission shall establish a schedule for reports that requires the permit holder to report on at least a semiannual basis.

(e) The Commission may revoke an extension granted under this section and impose the limits set out in subsections (c1) and (c2) of G.S. 143-215.1 if the Commission determines that a permit holder who has obtained an extension under this section has, at any time during the period of the extension:

(1) Failed to comply with the requirements of subsection (d) of this section; or

(2) Violated any conditions or limitations of any permit issued under G.S. 143-215.1 or special order issued under G.S. 143-215.2 if the violation is the result of conduct by the permit holder that results in a significant violation of water quality standards."

(d) G.S. 143-215.1 is amended by adding a new subsection to read:

"(h) Each applicant for a new permit or the modification of an existing permit issued under subsection (c) of this section shall include with the application: (i) the extent to which the new or modified facility is constructed in whole or in part with funds provided or administered by the State or a unit of local government, (ii) the impact of the facility on water quality, and (iii) whether there are cost-effective alternative technologies that will achieve greater protection of water quality. The Commission shall prepare a quarterly summary and analysis of the information provided by applicants pursuant to this subsection. The Commission shall submit the summary and analysis required by this subsection to the Environmental Review Commission (ERC) as a part of each quarterly report that the Commission is required to make to the ERC under G.S. 143B-282(b)."

(e) The Environmental Management Commission shall present the first summary and analysis required by G.S. 143-215.1(h), as enacted by subsection (d) of this section, as a part of the quarterly report to the Environmental Review Commission due on or before 15 April 1999 under G.S. 143B-282(b), as amended by subsection (f) of this section.

(f) G.S. 143B-282(b) reads as rewritten:

"(b) The Environmental Management Commission shall submit quarterly written reports as to its operation, activities, programs, and progress to the Environmental Review Commission. The Environmental Management Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. The Environmental Management Commission shall submit the written reports required by this subsection on or before 15 January, 15 April, 15 July, and 15 October of each year for the preceding calendar quarter. The Environmental Management Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Perdue, Representatives Mitchell, Baker, Carpenter, Hunter

TAR-PAMLICO AND NEUSE RIVERS RAPID RESPONSE TEAM

Section 14.10. The Department of Environment and Natural Resources shall direct members of the "Rapid Response Teams" or the Tar-Pamlico River Basin and the Neuse River Basin to assist other departmental personnel in routine water monitoring activities in the Tar-Pamlico River Basin or Neuse River Basin when the members of the "Rapid Response Teams" are not needed to respond to water quality emergencies or citizen complaints. The Department may also direct that personnel performing water quality monitoring activities assist with water quality monitoring in river basins to which the person has not been assigned if the person is not needed in the assigned basin.

The Department shall evaluate its use and assignment of the "Rapid Response Teams" and water quality monitoring personnel for the Tar-Pamlico River Basin and the Neuse River Basin to determine whether the most efficient use is being made of those personnel and resources. If the Department determines that assistance is needed in river basins other than those to which the "Rapid Response Teams" and water quality monitoring personnel have been assigned, the Department may direct that any appropriate member from the "Rapid Response Teams" or the water quality monitoring personnel assist in those basins where assistance is needed.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Hall

PROGRESS REPORTS/ISOTOPE STUDY TO IDENTIFY SOURCES OF NITROGEN IN NEUSE AND CAPE FEAR RIVER BASINS

Section 14.11B.The Primary Investigator or Researcher receiving funding from funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the isotope study to identify sources of nitrogen in the waters of the Neuse and Cape Fear River Basins shall satisfy the same reporting requirements as those set forth in Section 15.10 of S.L. 1997-443 for all the agriculture waste research reports.

Requested by: Senator Perdue

PARTNERSHIP FOR THE SOUNDS FUNDS

Section 14.12. Partnership for the Sounds, Inc., shall use a portion of the funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for Partnership for the Sounds, Inc., to expand their programs to include activities to promote nature-based tourism and environmental stewardship and education in Pamlico County.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, Hall

PROGRESS REPORTS/ALTERNATIVE ANIMAL WASTE TECHNOLOGIES STUDY

Section 14.13.The Primary Investigator or Researcher receiving funding from funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the study of alternative animal waste technologies shall satisfy the same reporting requirements as those set forth in Section 15.10 of S.L. 1997-443 for all the agriculture waste research reports.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

PROGRESS REPORTS/NEUSE MODELING PROJECT FUNDS

Section 14.14. (a) The funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the Neuse River Modeling and Monitoring Project shall be transferred to the Board of Governors of The University of North Carolina for the Water Resources Research Institute and shall be

used to monitor and model the Neuse River and the Neuse estuary under the Modeling and Monitoring (MODMON) Project, to develop a hydrodynamic model of the Neuse watershed, and to link these models in order to provide the data needed to determine the effectiveness of current nutrient management strategies for the Neuse River Basin.

(b) The Primary Investigator or Researcher receiving funding pursuant to subsection (a) of this section shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

UPPER NEUSE RIVER BASIN FUNDS/MODEL WATERSHED MANAGEMENT PLAN

Section 14.15. (a) The General Assembly finds that:

(1) The water resources of the Upper Neuse River Basin provide an essential and high quality supply of water needed to meet municipal, industrial, and agricultural needs.

(2) The water resources of the Upper Neuse River Basin are essential for wildlife habitat protection, water quality management, recreational activities, and other purposes.

(3) Management and protection of the quality and quantity of water in the Upper Neuse River Basin are essential to the future economic vitality of the several counties and municipalities that have planning and zoning jurisdiction in the Upper Neuse River Basin.

(4) As provided for under Part 1 of Article 21 of Chapter 143 of the General Statutes, comprehensive and coordinated State-local efforts are needed to develop and implement plans that provide adequate, long-term management and protection of water resources in river basins and segments of river basins, including the Upper Neuse River Basin.

(5) It would be beneficial for the State to support development of a model State-local watershed management approach in North Carolina, as envisioned in Part 1 of Article 21 of Chapter 143 of the General Statutes, enacted during the 1997 Session. The Upper Neuse River Basin Association proposes to develop such a model approach.

(b) Of the funds appropriated by this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year the sum of three hundred thousand dollars ($300,000) shall be allocated to the Upper Neuse River Basin Association, Inc., to develop a cooperative, comprehensive, and integrated State-local watershed management plan for the Upper Neuse River Basin to serve as a model watershed management approach for river basins and subbasins in North Carolina.

(c) The Upper Neuse Watershed Management Plan shall comply with the requirements of G.S. 143-214.14(g).

The Department of Environment and Natural Resources and other appropriate State agencies shall provide technical assistance to the Association during the development of the Association's plan. The Association shall actively solicit the input and assistance of the agencies during the identification of goals and objectives, development of performance indicators and benchmarks, and preparation of the plan.

(d) The funds allocated by this section are not adequate for the actual implementation of all or part of the recommendations included in the final watershed management plan. The Association and its member governments shall work with State and federal agencies and private and nonprofit organizations and individuals to obtain funding support for implementation of the plan.

(e) The Association shall report on all of its activities and programs to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on or before March 1 of each fiscal year, beginning in 1999, through completion of the final plan. The report shall include information on the Association's activities and accomplishments during the current fiscal year, itemized expenditures for development of the plan, major planned activities and accomplishments for at least the next 12 months, and anticipated expenditures with sources of funding for the next 12 months.

(f) For purposes of this section, "Upper Neuse River Basin" means all of the watershed area that drains that part of the Neuse River Basin and its tributary streams that are located above or terminate at the Falls Lake Reservoir Dam. The Upper Neuse River Basin is approximately 770 square miles in area and comprises all or part of six counties and eight municipalities. It comprises about thirteen percent (13%) of the entire Neuse River Basin.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

CHATHAM FUNDS FOR LOW-LEVEL RADIOACTIVE WASTE SITING

Section 14.17. Of the funds appropriated to the Department of Environment and Natural Resources in this act for the 1998-99 fiscal year, the sum of one hundred thousand dollars ($100,000) shall be used to reimburse Chatham County for the unreimbursed costs to Chatham County for providing technical assistance regarding the site selection of a low-level radioactive waste facility pursuant to Chapter 104G of the General Statutes and for other expenses incurred by Chatham County related to licensing and siting a low-level radioactive waste facility.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

MARINE FISHERIES APPEALS PANEL STAFF SUPPORT

Section 14.17A. Notwithstanding G.S. 143-16.3, of the funds appropriated to the Department of Environment and Natural Resources for the 1998-99 fiscal year, the Department may use up to thirty-three thousand five hundred thirty-eight dollars

($33,538) to provide staff support to the appeals panel in the Division of Marine Fisheries.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

AGRICULTURE COST SHARE PROGRAM DATABASE

Section 14.17B. Notwithstanding G.S. 143-16.3, of the funds appropriated to the Department of Environment and Natural Resources for the 1998-99 fiscal year, the Department may use up to sixty-one thousand dollars ($61,000) to provide programming and maintenance support to upgrade the existing agriculture cost share program database.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, Hall, Hunter

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUNDS

Section 14.18. (a) Subsections (e) through (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended, are repealed.

(b) Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, Section 26.6 of Chapter 507 of the 1995 Session Laws, Section 27.15 of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Section 15.44 of S.L. 1997-443, and subsection (a) of this section reads as rewritten:

"Sec. 69. (a) There is established the Beaver Damage Control Advisory Board. The Board shall consist of nine members, as follows:

(1) The Executive Director of the North Carolina Wildlife Resources Commission, or his designee, who shall serve as chair;

(2) The Commissioner of ~~Agriculture,~~ Agriculture and Consumer Services, or a designee;

(3) The Director of the Division of Forest Resources of the Department of ~~Environment, Health,~~ Environment and Natural Resources, or a designee;

(4) The Director of the Soil and Water Conservation Division of the Department of ~~Environment, Health,~~ Environment and Natural Resources, or a designee;

(5) The Director of the North Carolina Cooperative Extension Service, or a designee;

(6) The Secretary of Transportation, or a designee;

(7) The State Director of the Animal Damage Control Division of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or a designee;

(8) The President of the North Carolina Farm Bureau Federation, Inc., or a designee, representing private ~~landowners in the participating counties;~~ landowners; and

(9) A representative of the North Carolina Forestry Association.

(b) The Beaver Damage Control Advisory Board shall develop a statewide program to control beaver damage on private and public lands. ~~Anson, Bertie, Bladen, Brunswick, Carteret, Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Nash, Northampton, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties shall participate in the program.~~ The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

(1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to landowners through beaver control and management rather than eradication;

(2) Develop a priority system for responding to complaints about beaver damage;

(3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;

(4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops; and

(5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the program, and set salaries of ~~personnel;~~

~~(6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.~~ personnel.

No later than ~~January 15, 1998,~~ March 15 of each year, the Board shall issue a report to the Wildlife Resources ~~Commission~~ Commission, the Senate and House Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division on the ~~program to date, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties.~~ results of the program during the preceding year. ~~The Wildlife Resources Commission shall prepare a plan to implement a statewide program to control beaver damage on private and public lands. No later than March 15, 1998, the Wildlife Resources Commission shall present its plan in a report to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.~~

(c) The Wildlife Resources Commission shall implement the program, and may enter a cooperative agreement with the Animal Damage Control Division of the Animal and Plant Health Inspection Service, United States Department of Agriculture, to accomplish the program.

(d) Notwithstanding G.S. 113-291.6(d) or any other law, it is lawful to use snares when trapping beaver pursuant to the beaver damage control program developed pursuant to this section. The provisions of Chapter 218 of the 1975 Session Laws; Chapter 492 of the 1951 Session Laws, as amended by Chapter 506 of the 1955 Session

Laws; and Chapter 1011 of the 1983 Session Laws do not apply to trapping carried out in implementing the beaver damage control program developed pursuant to this section.

(d1) In case of any conflict between G.S. 113-291.6(a) and G.S. 113-291.6(b) and this section, this section prevails.

(d2) Each county that volunteers to participate in this program for a given fiscal year shall provide written notification of its wish to participate no later than September 30 of that year and shall commit the sum of four thousand dollars ($4,000) in local funds no later than September 30 of that year."

(c) The Revisor of Statutes shall codify in Chapter 113 of the General Statutes Section 69 of Chapter 1044 of the 1991 Session Laws as amended.

(d) Of the funds appropriated in this act to the Wildlife Resources Commission for the 1998-99 fiscal year, up to the sum of five hundred thousand dollars ($500,000) shall be used to provide the State share necessary to support the beaver damage control program as revised in this section, provided the sum of twenty-five thousand dollars ($25,000) in federal funds is available for the 1998-99 fiscal year to provide the federal share.

(e) Section 16 of S.L. 1998-23 is repealed.

Requested by: Senator Kerr, Representative Creech

CLEAN WATER GRANTS/CLARIFICATION

Section 14.19. (a) Section 5.1(g) of S.L. 1998-132 reads as rewritten:

"(g) Unsewered Community Grants. The proceeds of fifty-five million dollars ($55,000,000) of Clean Water Bonds shall be used to provide grants to eligible local government units to assist with wastewater treatment works and wastewater collection systems. Such grants shall be awarded and administered by the Rural Economic Development Center.

The proceeds of this fifty-five million dollars ($55,000,000) of Clean Water Bonds shall be awarded on the following criteria:

(1) The applicant shall be a local government unit.

(2) The applicant's population shall not exceed 5,000 persons using the most recent annual population estimates certified by the State Planning Officer.

(3) The applicant shall be an unsewered community.

(4) The applicant's median household income shall not exceed ninety percent (90%) of the national median household income using the most recently updated income figures made available from the Bureau of the Census.

(5) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees and charges for the proper operation, maintenance, and administration of the project. The schedule of fees and charges shall reflect at least the average annual water and wastewater cost per household calculated at one and one-half percent (1 1/2%) of the median household income of the applicant. However, if the applicant is a local government unit that

upon completion of the project will have only a single utility, then, the schedule of fees and charges shall reflect at least the average annual water or wastewater cost as appropriate per household calculated at three fourths percent (3/4%) of the median household income of the applicant.

(6) The applicant must submit as part of the application packet a preliminary engineering report, including an analysis of possible wastewater service alternatives, and an environmental assessment.

An applicant who satisfies the criteria under this subsection (g) may be eligible for up to ninety percent (90%) of the total project cost.

The Rural Economic Development Center shall award grants to units of local government for the purposes authorized by this subsection in accordance with the criteria set forth in this subsection. The proceeds of the Clean Water Bonds issued for the purpose described in this subsection shall be held in the Clean Water Bonds Fund until needed for expenditure by the grantee for the payment of costs for the purposes for which the grant is made. The Rural Economic Development Center shall maintain records that document the timing and purpose for which each expenditure of proceeds of a grant is made and shall furnish such records to the Secretary of Commerce at the time a request for payment to or on behalf of a grantee is to be made.

At the end of each fiscal year the Secretary of Commerce shall review the grants awarded by the Rural Economic Development Center with proceeds from the Clean Water Bonds to verify that the grants awarded comply with the requirements of this act. The Secretary of Commerce shall provide his or her findings regarding compliance in writing to the State Treasurer.

At the time that the Rural Economic Development Center provides information to the Secretary of Commerce as to the grants awarded during the preceding fiscal year, the Rural Economic Development Center shall also provide the Secretary of Commerce with a copy of all records of the Rural Economic Development Center from the preceding fiscal year (to the extent not previously provided to the Secretary) that document the timing and purposes of the expenditures by the grantee units of local government of the proceeds of the grants funded from the proceeds of the Clean Water Bonds."

(b) G.S. 159G-6(b) reads as rewritten:

"(b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

(1) General Wastewater Revolving Loan and Grant Account. – The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.

(2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the local government unit in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section. <u>However, if the applicant upon completion of the project will have only a single utility service, then the eligibility of the applicant for such a grant shall be determined by comparing estimated average household user fees for the single utility service that will be offered, for debt service and operation and maintenance costs, to three-fourths percent (3/4%) of the median household income in the local government unit in which the project is located. The single utility projects which would require estimated average household water or sewer user fees (as appropriate) greater than three-fourths percent (3/4%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section.</u>

(3) Emergency Wastewater Revolving Loan Account. – The funds in the Emergency Wastewater Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community."

PART XV. DEPARTMENT OF COMMERCE

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

Section 15. Section 16.11 of S.L. 1997-443 reads as rewritten:

"Section 16.11. (a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional

Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred ~~seventy-six thousand nine hundred twenty-three dollars ($276,923)~~ eighty thousand five hundred two dollars ($280,502) ~~in each fiscal year,~~ in the 1998-99 fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of two hundred ~~seventy-six thousand nine hundred twenty-three dollars ($276,923)~~ eighty thousand five hundred two dollars ($280,502) ~~in each fiscal year~~ in the 1998-99 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

(c) Of the funds appropriated in this act to the Department of Commerce for allocation to Regional Economic Development Commissions, the sum of two hundred twenty-five thousand dollars ($225,000) for the 1998-99 fiscal year shall be allocated to the Southeastern North Carolina Regional Economic Development Commission as follows:

(1) $150,000 for the purchase of land and an office building; and

(2) $75,000 to enhance recruiting and promotion of the film industry in the region.

These funds shall be in addition to funds allocated under subsections (a) and (b) of this section."

Requested by: Senators Cooper, Ballance

INDUSTRIAL RECRUITMENT COMPETITIVE FUND

Section 15.1. Of the funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund, the sum of up to two million dollars ($2,000,000) for the 1998-99 fiscal year shall be used to recruit a large recycling facility, as defined in G.S. 105-129.25, that meets all of the requirements of G.S. 105-129.26(b), as provided for in S.L. 1998-55.

Requested by: Senators Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter

MARKETING OF GLOBAL TRANSPARK BY DEPARTMENT OF COMMERCE

Section 15.2. The Division of Business and Industry of the Department of Commerce shall assume responsibility for the marketing of the North Carolina Global TransPark. Funds designated in the Department's budget for marketing of the North Carolina Global TransPark shall remain in the Department and shall be used by the Division to carry out this purpose.

Requested by: Senators Perdue, Warren, Albertson, Representatives Mitchell, Baker, Carpenter, Hardy, Hunter, Preston

HISTORIC WATERFRONT REVITALIZATION

Section 15.2B. (a) Planning Grants. – The four hundred thousand dollars ($400,000) appropriated to the Department of Commerce for the 1998-99 fiscal year for historic waterfront revitalization shall be allocated as follows:

Town of Murfreesboro	$100,000
Washington County for the Washington County Economic Development Commission	50,000
City of Washington	50,000
Beaufort County	50,000
Town of Swansboro	50,000
City of Jacksonville	50,000
Hyde County	25,000
Tyrrell County	25,000.

A proposed revitalization project is eligible for a planning grant under this section if both of the following conditions are satisfied:

(1) The proposed revitalization project is located in a National Register Historic District or includes the rehabilitation of a certified historic structure as defined in G.S. 105-130.42.

(2) The area of the proposed revitalization project is either contiguous to a navigable waterway or connected to a navigable waterway by a pedestrian walkway or alternative vehicular access trail that is natural, historically significant, or both.

(b) Technical Assistance. – The Department of Commerce is encouraged to provide technical assistance to eligible grant recipients under subsection (a) of this

section in preparing State and federal grant and loan applications with respect to the proposed revitalization project.

(c) Reports. – The Department of Commerce shall report annually to the Joint Legislative Commission on Governmental Operations and to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources on the grants awarded to and assistance provided under this section with respect to proposed historic waterfront revitalization projects, including information regarding to whom grants were made, in what amounts, and for what projects.

Requested by: Representatives Mitchell, Baker, Carpenter, Hall

COMPETITIVE GOVERNMENT INITIATIVE

Section 15.2C. (a) The General Statutes are amended by adding a new Chapter to read:

"Chapter 143C.

"North Carolina Government Competition Act of 1998.

"**§ 143C-1. Short title.**

This Chapter shall be known and may be cited as the 'North Carolina Government Competition Act of 1998'.

"**§ 143C-2. Definitions.**

As used in this Chapter, unless the context requires otherwise:

(1) 'Commission' means the North Carolina Government Competition Commission.

(2) 'State agency' means any State department, agency, or institution.

"**§ 143C-3. North Carolina Government Competition Commission created; duties.**

(a) The North Carolina Government Competition Commission is created within the Department of Commerce. The Commission shall exercise its powers independently of the Secretary of Commerce and shall be subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordination and reporting. The purpose of the Commission is to be the catalyst for the use of competition to improve the delivery of State government services, to make State government more effective and more efficient, and to reduce the costs of government to taxpayers.

(b) The Commission shall:

(1) Develop an institutional framework for a statewide competition initiative to encourage innovation and competition within State government.

(2) Establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without adversely affecting essential services.

(3) Monitor the activities, products, and services of State agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship to compete with the private sector to increase the quality of services or reduce costs to taxpayers.

(4) Identify any barriers to competition in State government and recommend actions to overcome those barriers.

(5) Promote acceptance of competition by State government officials and State employees as a viable alternative to in-house operations for delivering State government services where savings to the State may be realized through competition, including the development and implementation of State employee adjustment and incentive programs.

(6) Advocate, develop, and accelerate implementation of a competitive program for State agencies to ensure competition for the provision or production of government services from both public sector and private sector entities.

(7) Establish approval, planning, and reporting processes required to carry out the functions of the Commission.

(8) Determine the competition potential of a State program or activity, perform cost and benefit analyses, and conduct public and private competition analyses.

(9) Devise evaluation criteria to be used in conducting performance reviews of any State program or activity that is subject to a competition recommendation.

(10) Assess the short-term and long-term results of State government competition efforts.

(11) Appoint, as needed, ad hoc committees relating to specific matters within the Commission's purview.

"**§ 143C-4. Membership; appointment; terms; vacancies; chair; quorum; compensation.**

(a) The Commission shall be composed of nine members to be appointed as follows:

(1) Three members appointed by the Governor, one of whom shall be a State employee and two of whom shall be members of the private sector. One of these private sector members shall have large-scale purchasing experience.

(2) Three members appointed by the Speaker of the House of Representatives, two of whom shall be members of the private sector and one of whom shall be a State employee.

(3) Three members appointed by the President Pro Tempore of the Senate, two of whom shall be members of the private sector and one of whom shall be a State employee.

Members of the Commission shall serve two-year terms. In making the initial appointments to the Commission, the respective appointing authorities shall appoint at least one member for a one-year term so that subsequent terms stagger.

(b) All initial appointments shall become effective July 1, 1998. The initial members' terms shall end on June 30 of the applicable year in which a term expires, with the subsequent term beginning on July 1 of that year. No member may serve more than two consecutive terms. Vacancies shall be filled by the appointing authority for any

unexpired portion of a term. Members shall receive subsistence, per diem, and travel allowances as provided by G.S. 138-5.

(c) A majority of the members shall constitute a quorum. The Commission shall annually elect its chair and vice-chair from among its members.

(d) The Commission shall appoint an executive director and other necessary staff within funds available to it.

"**§ 143C-5. Cooperation of other State agencies.**

All State agencies shall cooperate with the Commission and, upon request, assist the Commission in the performance of its duties and responsibilities. The Commission shall not impose unreasonable burdens or costs in connection with requests of State agencies.

"**§ 143C-6. Application for and acceptance of certain gifts and grants; authority to enter into contract; applicability of State purchasing laws.**

(a) The Commission may apply for, accept, and expend gifts, grants, or donations from governmental sources or from private nonprofit foundations organized for taxation purposes under section 501(c)(3) of the Internal Revenue Code to enable it to better carry out its objectives. No entity that provides a gift, donation, or grant shall be eligible for a contract award that results from action of a Commission recommendation.

(b) The Commission may contract for professional or consultant service. Any consultant awarded a contract shall be ineligible for a contract award resulting from the consultant's recommendations.

(c) The Commission is subject to the provisions of Articles 3, 3C, and 3D of Chapter 143 of the General Statutes.

"**§ 143C-7. Public-private competition analysis; proposals for competition.**

(a) The Governor, the General Assembly, or the Commission may direct a State agency to perform a public-private competition analysis covering any service for which the Commission has received from a private entity a qualifying unsolicited proposal for competition that is consistent with the Commission's purposes and duties as provided in this Chapter.

(b) The Commission may solicit competition proposals from private entities for the purposes of making cost-comparison analyses. Any State agency may submit proposals to the Commission for cost-comparison analyses.

(c) If a service contract is awarded to a private vendor as a result of a recommendation by the Commission, cancellation of the contract requires the prior approval of both the Commission and the Division of Purchase and Contract. The Commission's executive director may act on behalf of the Commission under this subsection pursuant to rules adopted by the Commission.

"**§ 143C-8. Duties of the Office of State Budget and Management.**

The Office of State Budget and Management shall determine the amount of an existing appropriation that would no longer be needed by a State agency as the result of savings realized through competition and shall report annually, by February 1, the nature and amount of the savings to the Governor and to the Joint Legislative Commission on Governmental Operations.

"**§ 143C-9. Reports to the Governor and General Assembly.**

The Commission shall report annually, by February 1, its findings and recommendations to the Governor and the Joint Legislative Commission on Governmental Operations and may make other interim reports it deems advisable."

(b) Funds appropriated in this act to the Department of Commerce for the Competitive Government Initiative shall be used by the Department to implement this section.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Hall

RURAL TOURISM DEVELOPMENT GRANT PROGRAM

Section 15.3. Of the funds appropriated in this act to the Department of Commerce, the sum of three hundred thousand dollars ($300,000) for the 1998-99 fiscal year shall be allocated for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Grant Program under the following guidelines:

(1) Eligible organizations shall make application under procedures established by the Department;
(2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;
(3) Priority shall be given to eligible organizations that have significant involvement of travel- and tourism-related businesses;
(4) Priority shall be given to eligible organizations serving economically distressed rural counties;
(5) Priority shall be given to eligible organizations that match funds; and
(6) Funds shall not be used for renting or purchasing land or buildings or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars ($50,000) of these grant funds for the 1998-99 fiscal year.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

GREAT SMOKY MOUNTAINS SPECIAL LICENSE PLATE

Section 15.4. (a) G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less.

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or ~~less~~ less, other than a Friends of the Great Smoky Mountains National Park special registration plate, shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

(b) The Great Smoky Mountains National Park special registration plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall be the full art, three-color design submitted to the Division by Friends of the Great Smoky Mountains National Park in camera-ready format. The background color and design shall allow numbers on the face of the plate to be readily distinguished. Submission to the Division of the background design authorized under this subsection shall be the final design and, upon acceptance by the Division, no further changes in the background design shall be made.

Requested by: Senators Plyler, Odom, Perdue, Lee, Martin of Pitt

NC SEAFOOD INDUSTRIAL PARK AUTHORITY REVISIONS

Section 15.5. (a) G.S. 113-315.28 reads as rewritten:

"**§ 113-315.28. Purposes of Authority.**

Through the Authority hereinbefore created, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating the seafood industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements incident thereto, including the acquisition or construction, maintenance and operation as such seafood industrial parks of watercraft and facilities thereon or essential for the proper operation thereof. Said Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) To develop and improve the Wanchese Seafood Industrial Park, and such other places, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of seafood commerce from and to any place or places in the State of North Carolina and other states and foreign countries;

(2) To acquire, construct, equip, maintain, develop and improve the port facilities at said parks and to improve such portions of the waterways thereat as are within the jurisdiction of the federal ~~government;~~ government and the waterways connecting the Wanchese Seafood Industrial Park with the channels of commerce of the Atlantic Ocean, consistent with the project designed by the United States Army Corps of Engineers pursuant to the Manteo (Shallowbag) Bay navigation project as authorized in the Rivers and Harbors Act of 1970 (P.L. 91-611);

(3) To foster and stimulate the shipment of seafood commerce through said ports, whether originating within or without the State of North

Carolina, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;

(4) To cooperate with the United States of America and any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement and use of said seafood ~~harbors;~~ harbors and the waterways connecting the parks with the channels of commerce of the Atlantic Ocean;

(5) To accept funds from any of said counties or cities wherein said ports are located and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the said county or city, and to act as agent or instrumentality, of any of said counties or cities in any matter coming within the general purposes of said Authority;

(5a) To encourage and develop the general maritime and marine-related industries and activities at or in the vicinity of the seafood industrial parks;

(6) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of seafood industrial parks of the State of North Carolina, and to increase the movement of waterborne seafood commerce, foreign and domestic, to, through, and from said seafood industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the seafood possibilities of the State of North Carolina."

(b) G.S. 113-315.32 reads as rewritten:

"**§ 113-315.32. Power of eminent domain.**

For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches ~~thereto~~ thereto, including the navigation stabilization structures recommended by the United States Army Corps of Engineers pursuant to the authorization in United States Public Law 91-611, and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided ~~by the general laws of the State of North Carolina for the procedure by any county, municipality or authority organized under the laws of this State.~~ for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public ~~use.~~ use, other than lands subject to the power of eminent domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548."

(c) The State of North Carolina shall not be obligated to match any federal funds available for construction for the stabilization of the Oregon Inlet at a ratio greater than 80:20 federal funds to State funds.

Requested by: Representatives Mitchell, Baker, Carpenter, Bowie

OREGON INLET STABILIZATION STUDY COMMISSION

Section 15.5A. (a) Section 32.22 of S.L. 1997-443 is repealed.

(b) There is created the Oregon Inlet Stabilization Study Commission, an independent study commission, to continue the investigations undertaken by the Legislative Research Commission's Oregon Inlet Stabilization Study Committee during the 1997-98 interim as authorized by Section 32.22 of S.L. 1997-443.

The membership and chairmanship of the Study Commission shall be the same as that of the former Study Committee. Vacancies shall be filled by the person who made the initial appointment. Members of the Commission shall receive subsistence and travel allowances in accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate.

The Study Commission may hold hearings to receive public input on the potential benefits and costs to the State of stabilizing the inlet and consider alternative procedures and actions for the stabilization of the inlet along with the environmental, economic, governmental, and cultural costs and benefits that may result from the stabilization.

In analyzing the benefits and costs of stabilizing the Oregon Inlet, the Study Commission may employ the expertise of the Departments of Environment and Natural Resources, Transportation, and Justice and may solicit the assistance of the United States Army Corps of Engineers and any other federal or State agencies that might assist the study.

Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign appropriate professional staff from the Legislative Services Office of the General Assembly to assist with the study. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, upon the direction of the Legislative Services Commission. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

The Study Commission may consider any of the following:

(1) Continuation of the study beyond the current biennium until the issues surrounding the stabilization of the Oregon Inlet are finally resolved.
(2) Additional detailed studies of the benefits and costs of stabilizing the Oregon Inlet including a long-range plan for the stabilization of the inlet and a projection for the State's future costs of participation in that stabilization.
(3) Necessary statutory changes needed to implement any planned inlet stabilization.
(4) Alternatives to the stabilization of the Oregon Inlet.
(5) Funding sources for any stabilization projects or studies.

The Commission shall submit an interim or final report with any recommendations to the 1999 Session of the General Assembly prior to the adjournment of that session. The Commission may meet during the 1999 Session of the General Assembly at any time when neither the House of Representatives nor the Senate are in session.

The Commission shall terminate upon the issuance of its final report.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

WORKER TRAINING TRUST FUND APPROPRIATIONS

Section 15.6A. Section 16 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 16. (a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million six hundred eighty-nine thousand nine hundred sixty-four dollars ($6,689,964) for the 1997-98 fiscal year and the sum of ~~six million six hundred eighty-nine thousand nine hundred sixty-four dollars ($6,689,964)~~ seven million twenty-one thousand three hundred seventy-four dollars ($7,021,374) for the 1998-99 fiscal year for the operation of local offices.

(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1997-98 and the 1998-99 fiscal years for the following purposes:

(1) $2,400,000 for the 1997-98 fiscal year and ~~$2,400,000~~ $2,050,000 for the 1998-99 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;

(2) $1,000,000 for the 1997-98 fiscal year and $1,000,000 for the 1998-99 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Bureau for Training Initiatives;

(3) $1,746,000 for the 1997-98 fiscal year and $1,746,000 for the 1998-99 fiscal year to the Department of Community Colleges to continue the Focused Industrial Training Program;

(4) $225,000 for the 1997-98 fiscal year and $225,000 for the 1998-99 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;

(5) $400,000 for the 1997-98 fiscal year and $400,000 for the 1998-99 fiscal year to the Department of Community Colleges for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;

(6) $50,000 for the 1997-98 fiscal year and $50,000 for the 1998-99 fiscal year to the Office of State Budget and Management to maintain compliance with Chapter 96 of the General Statutes, which directs the

Office of State Budget and Management to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;

(7) $500,000 for the 1997-98 fiscal year and $1,000,000 for the 1998-99 fiscal year to the Department of Labor to expand the Apprenticeship Program. It is intended that the appropriation of funds in this subdivision will result in the Department of Labor serving a benchmark performance level of 10,000 adult and youth apprentices by the year 2000; and

(8) $100,000 for the 1997-98 fiscal year and $100,000 for the 1998-99 fiscal year to the State Board of Education for the Teacher Apprenticeship Program.

The State Board of Education may use funds appropriated from the Worker Training Trust Fund in this subdivision to design and implement a public school teacher apprenticeship program.

(9) $350,000 for the 1998-99 fiscal year to the Department of Community Colleges for the Hosiery Technology Center of North Carolina. It is the intent of the General Assembly that the Center operate in subsequent fiscal years without any special or supplemental funding."

Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter

YEAR 2000 CLARIFICATIONS

Section 15.7. Section 28.1 of S.L. 1997-443 reads as rewritten:

"Section 28.1. ~~(a) The Office of State Controller shall include in its charges for data processing services costs of converting computer applications to operate properly at the turn of the century.~~ The Department of Commerce shall not reduce rates for data processing services for the first six months of the 1998-99 fiscal year. If at the end of the first six months the Department determines that additional Year 2000 funds for the 1998-99 fiscal year are not needed from data processing services reserve funds, then the Department may reduce data processing services rates upon approval of the reduction by the Information Resources Management Commission. The ~~State Controller~~ Department shall develop and maintain procedures for managing the year 2000 conversion.

(b) The ~~State Controller~~ Department of Commerce shall analyze the needs of State agencies for funds to convert their systems. In the course of the analysis, the ~~State Controller~~ Department shall consider an agency's need for each system it wishes to convert and the most cost-effective manner in which to manage conversion. The ~~State Controller~~ Department shall certify to the Office of State Budget and Management the cost of each State agency for the year 2000 conversion.

~~(c) The Director of the Budget may use up to twenty-five million dollars ($25,000,000) of projected 1997-98 General Fund reversions to cover the cost of the year 2000 conversion in General Fund agencies during the 1997-98 fiscal year.~~

~~(d) Beginning October 1, 1997, and quarterly thereafter, the Office of State Controller shall report to the Joint Legislative Commission on Governmental Operations on the status of the conversion and cost projections~~."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

YEAR 2000 RESERVE FUND

Section 15.7A. (a) Section 1 of S.L. 1998-9 reads as rewritten:

"Section 1. There is appropriated from the General Fund to the Department of Commerce, Year 2000 Reserve Fund, the sum of twenty million five hundred six thousand three hundred sixty-seven dollars ($20,506,367) for the 1997-98 fiscal year to cover the costs of the year 2000 conversion in General Fund <u>and Highway Fund</u> agencies during the 1997-99 fiscal biennium."

(b) Section 17 of S.L. 1998-23 is repealed.

(c) This section becomes effective June 30, 1998.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

NORTH CAROLINA INFORMATION HIGHWAY

Section 15.8. Section 28 of S.L. 1997-443 reads as rewritten:

"Section 28. (a) The funds appropriated in this act to the ~~Office of State Controller~~ <u>Department of Commerce</u> for the operation of the North Carolina Information Highway shall be used only for costs incurred by the ~~Office of State Controller~~ <u>Department</u> related to the operations and support of the North Carolina Information Highway. No funds appropriated in this act shall be expended to pay Minimum Monthly usage charges for North Carolina Information Highway Services.

(b) ~~The Office of State Controller may use the two hundred twenty-four thousand dollars ($224,000) in savings that accrued in fiscal year 1996-97 to fund new sites in fiscal year 1997-98.~~

~~(c) The Office of State Controller is encouraged to consider new technologies and capabilities as a means of providing NCIH users access to the existing ATM-SONET network. The Office of State Controller shall report to the General Assembly in 1998 before the reconvening of the regular session on its findings.~~

~~(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations regarding the costs incurred by the Office of State Controller related to the operations and support of the North Carolina Information Highway.~~

~~(e) Given the appropriations subcommittees meet in the interim, the House and Senate Appropriations Subcommittees on General Government will consider information leading to a recommendation to adopt an alternate approach to State funding of sites, effective in fiscal year 1998-99. The subcommittee is not limited to the information that may be considered and may include in the review cost-sharing measures that require sites to participate in the annual cost of network charges; the phasing-out of one hundred percent (100%) State funding of site network charges; and the cost of adding new sites with a specific period of time designated for State funding~~

~~of network charges.~~ The Department of Commerce shall develop a Migration Plan for converting existing and proposed North Carolina Information Highway sites to the H.320 international telecommunications standard for delivering audio and video services to participating sites. The Department shall include at a minimum the following information in the Plan:

(1) A list of sites categorized by institutional purpose to be converted under the Plan;
(2) A timeline for converting each site;
(3) The cost of conversion for each site;
(4) The estimated operating cost savings for each site post conversion;
(5) The estimated monthly and annual operating cost subsidy for each site post conversion;
(6) The estimated total recurring dollar impact to the State's budget upon full implementation of the Plan; and
(7) A detailed plan for providing connectivity or bridging between the current DV-45 proprietary standard sites and the converted H.320 international standard sites.

The Plan shall also identify any participating information highway sites that utilize telecommunication standards other than the H.320 international standard offered by the Department along with the estimated costs for providing connectivity or bridging among these sites and between these sites and the converted H.320 international standard sites. The Plan shall be submitted by December 1, 1998, to the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter, Dickson

EXTEND UNIVERSAL SERVICE RULES DEADLINE

Section 15.8B. G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth

with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications services; (ii) to determine when necessary the rates for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. The Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Each local exchange company shall be the universal service provider in the area in which it is certificated to operate on July 1, 1995, until otherwise determined by the Commission. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. By ~~July 1, 1998,~~ July 1, 1999, the Commission shall complete an investigation and adopt final rules concerning the provision of universal services, the person that should be the universal service provider, and whether universal service should be funded through interconnection rates or through some other funding mechanism.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

FUNDS FOR CERTIFIED ECONOMIC DEVELOPMENT TRAINING

Section 15.8C. Notwithstanding G.S. 143-16.3, of the funds appropriated in this act to the Department of Commerce, the Department may use up to twenty-five thousand dollars ($25,000) to provide economic developers with Certified Economic Development (CED) training, the nationally recognized training standard for economic development professionals.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

FUNDS FOR TECHNOLOGICAL DEVELOPMENT AUTHORITY WET LAB AND OFFICE SPACE CONSTRUCTION

Section 15.9. Of the funds appropriated in this act to the Department of Commerce for the North Carolina Technological Development Authority, Inc., the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year shall be used to cover part of the cost of constructing a wet lab and office space. The Department shall place these funds in a reserve and shall not allocate any funds until the North Carolina Technological Development Authority, Inc., has secured all financing necessary to cover the total cost of constructing the wet lab and office space.

Requested by: Senator Martin of Pitt

NORTH CAROLINA GLOBAL CENTER REPORT

Section 15.10. The North Carolina Global Center shall:

(1) By March 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
   b. State fiscal year 1997-98 itemized expenditures and fund sources;
   c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
   d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

NORTH CAROLINA INSTITUTE OF MINORITY ECONOMIC DEVELOPMENT, INC./REPORT

Section 15.11. The North Carolina Institute of Minority Economic Development, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

LAND LOSS PREVENTION PROJECT, INC./REPORT

Section 15.12. The Land Loss Prevention Project, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt

NORTH CAROLINA COALITION OF FARM AND RURAL FAMILIES, INC., REPORT

Section 15.13. The North Carolina Coalition of Farm and Rural Families, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

NORTH CAROLINA MINORITY SUPPORT CENTER REPORT

Section 15.14. The North Carolina Minority Support Center shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

WORLD TRADE CENTER OF NORTH CAROLINA/REPORT

Section 15.14B. The World Trade Center of North Carolina shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Dannelly

COMMUNITY DEVELOPMENT INITIATIVE

Section 15.15. Of the funds appropriated in this act to the North Carolina Community Development Initiative, Inc., the sum of two hundred thousand dollars ($200,000) for the 1998-99 fiscal year shall be allocated to the Northwest Corridor CDC.

Requested by: Senators Martin of Pitt, Dannelly

CENTER FOR COMMUNITY SELF-HELP FUNDS

Section 15.16. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year shall be allocated to the Center for Community Self-Help to further a statewide program of lending for home ownership throughout North Carolina. These funds will be leveraged on a ten-to-one basis, generating at least ten dollars ($10.00) of nontraditional home loans for every one dollar ($1.00) of State funds. Payments of principal shall be available for further loans or loan guarantees.

(b) The Center for Community Self-Help shall submit, within 180 days after the close of its fiscal year, audited financial statements to the State Auditor. All records pertaining to the use of State funds shall be made available to the State Auditor upon request. The Center for Community Self-Help shall make quarterly reports on the use of State funds to the State Auditor in form and format prescribed by the State Auditor or his designee. The Center for Community Self-Help shall make a written report by May 1 of each year for the next three years to the General Assembly on the use of the funds allocated under this section.

(c) The Center for Community Self-Help shall report to the Joint Legislative Commission on Governmental Operations, the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Department of Commerce on a quarterly basis for the next three years.

(d) The Office of the State Auditor may conduct an annual end-of-year audit of the revolving fund for economic development lending created by this appropriation for each year of the life of the revolving fund.

(e) If the Center for Community Self-Help dissolves, the corporation shall transfer the remaining assets of the revolving fund to the State and shall refrain from disposing of the revolving fund assets without approval of the State Treasurer.

(f) The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help. The request shall include a commitment of the leveraged funds by the Center for Community Self-Help or its affiliates.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

MCNC

Section 15.17. Section 16.21 of S.L. 1997-443 reads as rewritten:

"Section 16.21. (a) MCNC shall report on all of its programs including contractual services for the Supercomputer and the Research and Education Network. The reports shall:

(1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1996-97 program activities, objectives, and accomplishments;

b. State fiscal year 1996-97 itemized expenditures and fund sources;

c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;

d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.

e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.

f. The organization's progress toward achieving self-sufficiency by July 1, 1999.

(2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998;

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.

f. The organization's progress toward achieving self-sufficiency by July 1, 1999.

(3) Provide to the Fiscal Research Division a copy of MCNC's annual audited financial statement within 30 days of issuance of the statement.

(b) The funds appropriated in this act to MCNC shall be used as follows:

	FY 1997-98	FY 1998-99
Electronic and Information Technologies Programs	$4,500,000	~~$2,500,000~~ $4,500,000

(c) Of the funds appropriated for the Electronic and Information Technologies Programs, four million five hundred thousand dollars ($4,500,000) for the 1997-98 fiscal year and ~~two~~ four million five hundred thousand dollars ~~($2,500,000)~~ ($4,500,000) for the 1998-99 fiscal year is contingent upon a dollar-for-dollar match in non-State funds.

(d) It is the intent of the General Assembly that State funds shall not be appropriated for MCNC in fiscal years 1999-2000 and beyond."

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

RURAL ECONOMIC DEVELOPMENT CENTER

Section 15.18. Section 16.24 of S.L. 1997-443 reads as rewritten:

"Section 16.24. (a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million two hundred seventy thousand dollars ($1,270,000) for the 1997-98 fiscal year and the sum of one million ~~two~~ five hundred ~~seventy~~ seven thousand three hundred thirty-eight dollars ~~($1,270,000)~~ ($1,507,338) for the 1998-99 fiscal year shall be allocated as follows:

	1997-98 FY	1998-99 FY
Research and Demonstration Grants	$475,864	$~~475,864~~ 525,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight,		

and Other Programs 350,000 ~~350,000~~ 537,338

(a1) Of the funds allocated under subsection (a) of this section for Research and Development Grants, the sum of thirty-five thousand dollars ($35,000) shall be allocated to the Fisheries Development Foundation for mariculture activities.

(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

(c) Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Center for administrative purposes, including salaries and fringe benefits.

(d) For purposes of this section, the term 'community development corporation' means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five million seven hundred fifty thousand dollars ($5,750,000) for the 1997-98 fiscal year and the sum of ~~two million four hundred~~ ten million eight hundred seventy-five thousand dollars ~~($2,400,000)~~ ($10,875,000) for the 1998-99 fiscal year shall be allocated as follows:

(1) $1,400,000 in fiscal year 1997-98 and $~~1,200,000~~ 1,475,000 in fiscal year 1998-99 for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. Funding shall also be allocated to the North Carolina Association of Community Development Corporations, Inc. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $900,000 in each fiscal year for direct grants to the local community development corporations that have previously

received State funds for this purpose to support operations and project activities;

b. $250,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds;

c. ~~$200,000~~ $275,000 in fiscal year ~~1997-98~~ 1998-99 to the North Carolina Association of Community Development Corporations, Inc., to provide training, technical assistance, resource development, and support for local community development corporations statewide; of these funds, the sum of fifty thousand dollars ($50,000) shall be used to coordinate a special project targeting grassroot nonprofit organizations for economic development activities in distressed areas of Eastern North Carolina focusing on issues of infrastructure and affordable housing, and the sum of twenty-five thousand dollars ($25,000) shall be allocated to the Walnut Cove Colored School, Inc., for operational and capital needs; and

d. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $250,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; ~~and~~

(3) $4,100,000 for the 1997-98 fiscal year and ~~$950,000~~ $8,950,000 for the 1998-99 fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall use these funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:

a. Necessary economic development projects and activities in economically distressed areas, ~~or~~

b. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low pressure pipe wastewater systems.If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar for dollar basis in the amount of the grant ~~awarded.~~ awarded, or

c. Projects that demonstrate alternative waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficacy, and the ability of the demonstration project to be replicated.

The grant recipients in this subsection shall be selected on the basis of ~~need.~~ need; and

(4) $200,000 in fiscal year 1998-99 to the Capacity Building Grants Program. Grants shall be awarded to units of local government to pay all or a portion of the costs associated with the planning and writing of a grant or loan application, a capital improvement plan, or other efforts that support growth and development of rural areas.

(f) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1996-97 program activities, objectives, and accomplishments;

b. State fiscal year 1996-97 itemized expenditures and fund sources;

c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and

d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.

(2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement."

PART XVA. DEPARTMENT OF LABOR

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Mitchell, Baker, Carpenter, Hunter

DEPARTMENT OF LABOR/BUDGET OVER-REALIZED INDIRECT COST RECEIPTS

Section 15A.1. The Department of Labor may budget over-realized indirect cost receipts in the 1998-99 fiscal year to fund the following:

(1) Departmental technology needs, and
(2) Costs to relocate selected Divisions of the Department of Labor to the Old Revenue Building.

PART XVI. JUDICIAL DEPARTMENT

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

IRMC REVIEW OF AOC INFORMATION TECHNOLOGY PLANS/LONG-RANGE REPORT

Section 16. (a) G.S. 143B-472.41 reads as rewritten:

"**§ 143B-472.41. Information Resource Management Commission.**

(a) Creation; Membership. – The Information Resource Management Commission is created in the Department of Commerce. The Commission consists of the following members:

(1) Four members of the Council of State, appointed by the Governor.
(1a) The Secretary of State.
(2) The Secretary of Administration.
(3) The State Budget Officer.
(4) Two members of the Governor's cabinet, appointed by the Governor.
(5) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
(6) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
(7) The Chair of the Governor's Committee on Data Processing and Information Systems.
(8) The Chair of the State Information Processing Services Advisory Board.
(9) The Chair of the Criminal Justice Information Network Governing Board.
(10) The State Controller.
(11) The Director of the Administrative Office of the Courts or the Director's designee.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

The two initial cabinet members appointed by the Governor and the two initial citizen members appointed by the General Assembly shall each serve a term beginning September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be

appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service of the Commission if they are no longer cabinet members.

The appointees by the Governor from the Council of State shall each serve a term beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The Secretary of Commerce shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency.

(b) Powers and Duties. – The Commission has the following powers and duties:

(1) To develop, approve, and publish a statewide information technology strategy covering the current and following biennium that shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session.

(2) To develop, approve, and sponsor statewide technology initiatives and to report on those initiatives in the annual update of the statewide information technology strategy.

(3) To review and approve biennially the information technology plans of the executive agencies and ~~to review and comment biennially on the information technology plans of~~ the Administrative Office of the Courts. This review shall include plans for the procurement and use of personal computers and workstations.

(4) To recommend to the Governor and the Office of State Budget and Management the relative priorities across executive agency <u>and Administrative Office of the Courts</u> information technology plans.

(5) To establish a quality assurance policy for all agency information technology projects, information systems training programs, and information systems documentation.

(6) To establish and enforce a quality review and expenditure review procedure for major agency information technology projects.

(7) To review and approve expenditures from appropriations made to the Office of State Budget and Management for the purpose of creating a Computer Reserve Fund.

(8) To develop and promote a policy and procedures for the fair and competitive procurement of information technology consistent with the rules of the Department of Administration and consistent with published industry standards for open systems that provide agencies with a vendor-neutral operating environment where different

information technology hardware, software, and networks operate together easily and reliably.

(c) Meetings. – The Information Resources Management Commission shall adopt bylaws containing rules governing its meeting procedures. The Information Resources Management Commission shall meet at least monthly."

(b) The Administrative Office of the Courts shall develop a strategic information systems and technology plan to both serve the courts in the present and assist the courts in adapting to future changes. The plan shall:

(1) Identify and document the information technology goals and objectives of the Judicial Department;

(2) Review and evaluate the findings and recommendations outlined in the Maddox and Ferguson report completed in September 1996;

(3) Provide an inventory of existing hardware and software in the court system statewide, including the age of and proposed replacement schedules, for personal computers, laptop computers, mainframe and midrange computers, servers, terminals, printers, and communications infrastructure devices;

(4) Assess the effectiveness of existing computer-based applications, including the district attorney and public defender case management system, courtroom automation, the civil case processing system, and the financial management system, and outline any changes that may be needed to meet the future needs of the court system;

(5) Develop an architectural strategy and quality assurance review that is consistent with existing State standards;

(6) Identify areas where the use of information technology would improve the efficiency and effectiveness of the court system in providing services to the public;

(7) Develop a long-term implementation plan and cost analysis for the new Magistrates Criminal Information System; and

(8) Recommend alternative five-year proposals for implementing the court system's technology plan, including a cost analysis of each alternative that specifies the order of priority in which various projects should be implemented.

The Administrative Office of the Courts shall report on the strategic information systems and technology plan developed pursuant to this section to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The Administrative Office of the Courts shall make an interim report by April 1, 1999, and a final report by May 1, 1999.

(c) The Judicial Department may use up to the sum of five hundred thousand dollars ($500,000) in funds appropriated to the Department for the 1998-99 fiscal year to contract for consultant services in the development of the strategic information systems and technology plan required by this section. Prior to expending these funds, the Department shall report to the Joint Legislative Commission on

Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Subcommittees on Justice and Public Safety on the consultant selected and the proposed uses of these funds.

(d) This section is effective when this act becomes law.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

STUDY OF PUBLIC DEFENDER PROGRAMS

Section 16.1. The Administrative Office of the Courts shall study the efficiency and cost-effectiveness of the public defender programs established in 11 judicial districts. The report shall include:

(1) A comparison outlining the number of defendants in each district represented by public defenders and privately assigned counsel by type of offense;

(2) An analysis of the average cost per defendant or case for each public defender program and a comparison of that average to payments made to privately assigned counsel in those districts;

(3) An implementation plan for potential expansion of public defender programs to additional districts, including possible locations, a cost analysis of necessary personnel and equipment to operate the programs, and the estimate of savings to be realized in using those programs rather than providing for privately assigned counsel.

The Administrative Office of the Courts shall report the results of its study to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Indigent Fund Study Commission established in Section 16.5 of this act by April 1, 1999.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

REVISE RECIDIVISM REPORTING DATE

Section 16.2. G.S. 7A-675.3 reads as rewritten:

"**§ 7A-675.3. Juvenile recidivism rates.**

(a) On an annual basis, the Administrative Office of the Courts shall compute the recidivism rate of juveniles who are adjudicated delinquent for offenses that would be Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative Commission on Governmental Operations by ~~December 31~~ February 15 each year.

(b) The Chief Court Counselor of each judicial district shall forward to the Administrative Office of the Courts relevant information, as determined by the Administrative Office of the Courts, regarding every juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult for the purpose of computing the statistics required by this section."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Redwine, Sexton, Smith

EXTEND SUNSET ON BAD CHECK PROGRAM/ADD WAKE COUNTY PILOT

Section 16.3. (a) Subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, ~~1998.~~ 1999."

(b) Subsection (c) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(c) Of the funds appropriated to the Judicial Department for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be used to establish bad check collection pilot programs in Columbus, Durham, and Rockingham Counties.

Of the funds appropriated to the Judicial Department for the 1998-99 fiscal year, the sum of two hundred seventeen thousand seven hundred ninety-four dollars ($217,794) shall be used to continue the bad check collection pilot programs in Columbus, Durham, and Rockingham Counties and to establish a bad check collection pilot program in Wake County.

The Administrative Office of the Courts shall report by ~~May 1, 1998,~~ April 1, 1999, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the programs, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved in prosecuting worthless check cases."

(c) Subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This act apples only to Columbus, Durham, ~~and Rockingham~~ Rockingham, and Wake Counties."

(d) Section 11 of S.L. 1998-23 is repealed.

(e) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Redwine, Sexton, Smith

TEEN COURT FUNDS DO NOT REVERT/ESTABLISH TEEN COURT PROGRAMS IN DUPLIN, GUILFORD, AND ONSLOW COUNTIES

Section 16.4. (a) The funds appropriated in S.L. 1997-443 to the Judicial Department for teen court programs throughout the State shall not revert at the end of the 1997-98 fiscal year and shall remain available to the Department for the 1998-99 fiscal year to be used for teen court programs.

(b) With funds appropriated in this act to the Administrative Office of the Courts for the 1998-99 fiscal year, the Administrative Office of the Courts shall establish teen court programs in Duplin, Guilford, and Onslow Counties pursuant to the guidelines and objectives set forth in Section 40 of Chapter 24 of the Session Laws of the 1994 Extra Session.

(c) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

INDIGENT FUND STUDY COMMISSION

Section 16.5. (a) The Administrative Office of the Courts shall establish a Study Commission on the Indigent Persons' Attorney Fee Fund. The Commission shall consist of seven voting members as follows:

(1) One member appointed by the Speaker of the House of Representatives;
(2) One member appointed by the President Pro Tempore of the Senate;
(3) One member appointed by the Chief Justice of the Supreme Court;
(4) One member appointed by the North Carolina Association of Public Defenders;
(5) One member appointed by the North Carolina State Bar;
(6) One member appointed by the North Carolina Bar Association; and
(7) One member appointed by the North Carolina Academy of Trial Lawyers.

The Commission shall elect a chair upon being convened at the call of the Chief Justice's appointee.

(b) The Commission shall study methods for improving the management and accountability of funds being expended to provide counsel to indigent defendants without compromising the quality of legal representation mandated by State and federal law. In conducting its study, the Commission shall:

(1) Evaluate the current procedures for determining the indigency of defendants and recommend any possible improvements in those procedures;
(2) Determine whether sufficient information is available when evaluating compensation requests from assigned private counsel and expert witnesses;
(3) Assess the effectiveness of the current management structure for the Indigent Persons' Attorney Fee Fund and outline any additional standards or guidelines that could be implemented to allow for greater accountability of the funds being expended;
(4) Evaluate whether establishing an Indigent Defense Council to oversee the State's expenditure of funds on a district, regional, or Statewide basis would make the functioning of the Indigent Persons' Attorney Fee Fund more efficient and economical;
(5) Evaluate the effectiveness of existing methods of providing legal representation to indigent defendants, including the use of public defenders, appointed counsel, and contract lawyers;
(6) Review methods used by other states to provide legal representation to indigent defendants;
(7) Assess the potential effectiveness of distributing funds in other ways, including the hiring of contract attorneys on a retainer basis and the expansion of public defender programs; and

(8) Outline additional suggestions that would improve the provision of legal representation to indigent defendants.

The Administrative Office of the Courts shall assign professional and clerical staff to assist in the work of the Commission. The Commission shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety no later than May 1, 1999. The report shall include a cost analysis demonstrating the additional personnel and equipment necessary to implement the Commission's recommendations. The report shall also include any legislation necessary to implement the Commission's recommendations.

(c) The Administrative Office of the Courts may use up to the sum of fifty thousand dollars ($50,000) from the Indigent Persons' Attorney Fee Fund to contract for consultant services to assist in meeting the Commission's responsibilities.

Requested by: Senator Rand, Representatives Justus, Kiser, Thompson

CUMBERLAND JUVENILE ASSESSMENT CENTER

Section 16.6. (a) Section 18.21 of S.L. 1997-443 reads as rewritten:

"Section 18.21. (a) Of the funds appropriated in this act to the Administrative Office of the Courts for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be used to fund the Juvenile Assessment Project authorized by this section. These funds shall be matched by local funds on the basis of one dollar ($1.00) of local funds for every three dollars ($3.00) of State funds. These funds shall not revert at the end of the 1997-98 fiscal year, but shall remain in the Department during the 1998-99 fiscal year to implement this section.

(b) The Administrative Office of the Courts, in collaboration with the Chief Court Counselor of District Court District 12, the Cumberland County Department of Social Services, and the appropriate local school administrative units, shall develop and implement a Juvenile Assessment Center Project in District Court District 12 to operate from the effective date of this act to ~~June 30, 1998.~~ June 30, 1999. The purpose of the Project is to facilitate efficient prevention and intervention service delivery to juveniles who are (i) alleged to be delinquent or undisciplined and have been taken into custody or (ii) at risk of becoming delinquent or undisciplined because they have behavioral problems and have committed delinquent acts even though they have not been taken into custody. The Project shall assist these juveniles by providing a centralized point of intake and assessment for the juveniles, by addressing the educational, emotional, and physical needs of the juveniles, and by providing juveniles with an atmosphere for learning personal responsibility, self-respect, and respect for others. The Administrative Office of the Courts shall consider the recommendations of the Juvenile Assessment Advisory Board in developing and implementing the Project.

(c) The Project shall be modeled after the Juvenile Assessment Center in Hillsborough County, Florida, and shall:

(1) Identify those juveniles who are alleged to be delinquent or undisciplined or are at risk of becoming delinquent or undisciplined;

(2) Evaluate the educational, emotional, and physical needs of the juveniles identified and determine whether the juveniles have problems related to substance abuse, depression, or other emotional conditions;

(3) Develop in-depth and comprehensive assessment plans for the juveniles identified that recommend appropriate treatment, counseling, and disposition of the juveniles; and

(4) Provide services to juveniles identified and their families through collaboration with public and private resources, including local law enforcement, parents' organizations, the Fayetteville Chamber of Commerce, and county and community programs and organizations that provide substance abuse treatment and child and family counseling.

(d) There is established the Juvenile Assessment Advisory Board to make recommendations to the Administrative Office of the Courts regarding the development and operations of the Project. The Board shall consist of 13 members, including:

(1) The director of the Department of Social Services of Cumberland County, or the director's designee.

(2) A representative from the local mental health area authority of Cumberland County.

(3) A member of the Cumberland County Board of Education.

(4) The sheriff of Cumberland County, or the sheriff's designee.

(5) The chief of police of the Fayetteville Police Department, or the designee of the chief of police.

(6) A judge of District Court District 12.

(7) A juvenile court counselor from District Court District 12.

(8) The director of the Guardian Ad Litem program in Cumberland County, or the director's designee.

(9) The director of the Health Department of Cumberland County, or the director's designee.

(10) Two public members appointed by the Fayetteville City Council.

(11) Two public members appointed by the Board of County Commissioners of Cumberland County.

The members of the Board shall, within 30 days after the initial appointment is made, meet and elect one member as chair. The Board shall meet at least once a month at the call of the chair, and a quorum of the Board shall consist of a majority of its members. The Board of County Commissioners of Cumberland County shall provide necessary clerical and professional assistance to the Board.

Initial appointments shall be made by October 1, 1997, and all terms shall expire ~~June 30, 1998.~~ June 30, 1999.

(e) The Administrative Office of the Courts, in consultation with the Department of ~~Human Resources,~~ Health and Human Services, shall evaluate the Project and report to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and

~~Human Resources,~~ Health and Human Services, and the Fiscal Research Division of the General Assembly by ~~May 1, 1998,~~ May 1, 1999, on the progress of the development and implementation of the Project. In the report, the Administrative Office of the Courts, in consultation with the Department of ~~Human Resources,~~ Health and Human Services, shall evaluate the effectiveness of the Project, including the number of juveniles served or expected to be served, and shall recommend whether the Project should be continued. If the report recommends that the Project be continued, it shall also provide a cost analysis outlining the long-term staffing and operating needs of the Project."

(b) Section 10 of S.L. 1998-23 is repealed.

(c) This section becomes effective June 30, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

COMMUNITY PENALTIES PROGRAMS

Section 16.8. Subsection (a) of Section 18.4 of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated from the General Fund to the Judicial Department for the 1997-99 biennium to conduct the Community Penalties Program, the sum of four million three hundred fifty-five thousand three hundred eighty-two dollars ($4,355,382) for the 1997-98 fiscal year and the sum of ~~four million three hundred fifty-five thousand three hundred eighty-two dollars ($4,355,382)~~ four million four hundred sixty-four thousand five hundred twenty-one dollars ($4,464,521) for the 1998-99 fiscal year may be allocated by the Judicial Department in each year of the biennium in any amount among existing community penalties programs, including any State-operated programs, or may be used to establish new community penalties programs."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

DISTRICT COURT CIVIL CASE MANAGEMENT

Section 16.9. Section 18.23 of S.L. 1997-443 reads as rewritten:

"Section 18.23. The Administrative Office of the Courts shall report by ~~May 1, 1998,~~ April 1, 1999, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the civil case management pilot programs established in District Court Districts 13, 18, and 30. The report shall assess the success of these programs in reducing the backlog of civil court cases and in resolving new cases more quickly."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

CAPITAL CASE PILOT PROGRAM

Section 16.10. (a) The Administrative Office of the Courts shall establish a capital case pilot program to be incorporated into the Office of the Appellate Defender

to provide assistance to districts experiencing difficulty in locating qualified private counsel to handle capital cases.

(b) The Administrative Office of the Courts may use up to the sum of one hundred eighty thousand forty dollars ($180,040) from the Indigent Persons' Attorney Fee Fund for the 1998-99 fiscal year for salaries, benefits, and related expenses to establish two new assistant public defender positions, one legal assistant position, and one investigator to work specifically on capital cases.

(c) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 1, 1999, on the effectiveness of the program, including information on which districts have received assistance, the average cost per defendant served, and an estimate of the savings to be realized in using this program rather than privately assigned counsel.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

AUTHORIZE ADDITIONAL MAGISTRATES

Section 16.11. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Magistrates Max.	Additional Seats of Court
Camden	1	2	
Chowan	2	3	
Currituck	1	~~3~~ 4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	3	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	~~3~~ 4	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	

Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	6	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	4	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	20	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	18	
Bladen	4	6	
Brunswick	4	~~7~~ 8	
Columbus	6	9	Tabor City
Durham	8	13	
Alamance	7	10	Burlington
Orange	4	11	Chapel Hill
Chatham	3	8	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton,

			Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	26	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	6	
Anson	4	5	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	3	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	~~4~~ 5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	~~26~~ 27	
Gaston	11	~~21~~ 22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	5	

Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	4	
Macon	3	4	
Swain	2	3."	

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

ASSISTANT PUBLIC DEFENDERS

Section 16.12. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1998-99 fiscal year, the Administrative Office of the Courts may use up to one hundred seventy-nine thousand two hundred twenty dollars ($179,220) for salaries, benefits, equipment, and related expenses to establish up to four new assistant public defender positions.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

PROVIDE THAT THE CLERK OF SUPERIOR COURT DOES NOT HAVE TO INVENTORY A DECEDENT'S SAFE-DEPOSIT BOX IF A QUALIFIED PERSON IS PRESENT AT THE OPENING OF THE BOX

Section 16.14. (a) Article 15 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"**§ 28A-15-13. Opening and inventory of decedent's safe-deposit box.**

(a) Definitions. – The following definitions apply to this section:

(1) Institution. – Any entity or person having supervision or possession of a safe-deposit box to which a decedent had access.

(2) Letter of authority. – Letters of administration, letters testamentary, an affidavit of collection of personal property, an order of summary administration, or a letter directed to the institution designating a person entitled to receive the contents of a safe-deposit box to which the decedent had access. The letter of authority must be signed by the clerk of superior court or by the clerk's representative.

(3) Qualified person. – A person possessing a letter of authority or a person named as a lessee or cotenant of the safe-deposit box to which the decedent had access.

(b) Presence of Clerk Required. – Any safe-deposit box to which a decedent had access shall be sealed by the institution having supervision or possession of the box. Except as provided in subsection (c) of this section, the presence of the clerk of superior court of the county where the safe-deposit box is located or the presence of the clerk's

representative is required before the box may be opened. The clerk or the clerk's representative shall open the safe-deposit box in the presence of the person possessing a key to the box and a representative of the institution having supervision or possession of the box. The clerk shall make an inventory of the contents of the box and furnish a copy to the institution and to the person possessing a key to the box.

(c) Presence of Clerk Not Required. – The presence of the clerk of superior court or the clerk's representative is not required when the person requesting the opening of the decedent's safe-deposit box is a qualified person. In that event, the qualified person shall make an inventory of the contents of the box and furnish a copy to the institution and to the person possessing a key to the box if that person is someone other than the qualified person.

(d) Testamentary Instrument in Box. – If the safe-deposit box contains any writing that appears to be a will, codicil, or any other instrument of a testamentary nature, then the clerk of superior court or the qualified person shall file the instrument in the office of the clerk of superior court.

(e) Release of Contents. – Except as provided in subsection (d) for testamentary instruments, the institution shall not release any contents of the safe-deposit box to anyone other than a qualified person.

(f) No Tax Waiver Required. – No tax waiver is required for the release of the contents of the decedent's safe-deposit box."

(b) This section becomes effective January 1, 1999, and applies to estates of decedents who die on or after that date.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

CONTINUE DRUG TREATMENT COURT

Section 16.15. (a) Section 21.6(c) of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(c) Subsection (a) of this section becomes effective ~~July 1, 1995, and expires June 30, 1998.~~ July 1, 1995. The remainder of this section becomes effective October 1, 1995."

(b) G.S. 7A-791 reads as rewritten:

"**§ 7A-791. Purpose.**

The General Assembly recognizes that a critical need exists in this State for criminal justice system programs that will reduce the incidence of drug use and drug addiction and crimes committed as a result of drug use and drug addiction. It is the intent of the General Assembly by this Article to create a program to facilitate the creation of local drug treatment court ~~pilot programs in a minimum of two judicial districts.~~ programs."

(c) G.S. 7A-793 reads as rewritten:

"**§ 7A-793. Establishment of Program.**

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation ~~of drug treatment court programs~~ and ~~the~~ funding of ~~pilot~~ local drug treatment court programs. The Director of the Administrative Office of the Courts shall provide any necessary staff for planning,

organizing, and administering the program. ~~Drug~~ Local drug treatment court programs funded pursuant to this Article shall be operated ~~consistent~~ consistently with the guidelines ~~promulgated by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee established in G.S. 7A-795. In promulgating the guidelines, the Director and the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force.~~ adopted pursuant to G.S. 7A-795."

(d) G.S. 7A-794 reads as rewritten:

"**§ 7A-794. Fund administration.**

The Drug Treatment Court Program Fund is created in the Administrative Office of the Courts and is administered by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee. The Director of the Administrative Office of the Courts shall award grants from this Fund and implement local drug treatment court ~~programs in a minimum of two judicial districts.~~ programs. Grants shall be awarded based upon the general guidelines set forth by the Director of the Administrative Office of the Courts and the State Drug Treatment Court Advisory Committee."

(e) G.S. 7A-795 reads as rewritten:

"**§ 7A-795. State Drug Treatment Court Advisory Committee.**

The State Drug Treatment Court Advisory Committee is established to develop and recommend to the Director of the Administrative Office of the Courts guidelines for the drug treatment court program and to monitor local programs wherever they are implemented. The Committee shall be chaired by the Director ~~of the Administrative Office of the Courts~~ or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, law enforcement, corrections, and substance abuse treatment communities. In developing guidelines, the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force."

(f) G.S. 7A-796 reads as rewritten:

"**§ 7A-796. Local drug treatment court management committee.**

Each judicial district choosing to establish a drug treatment court ~~or applying to participate in a funded pilot program~~ shall form a local drug treatment court management committee, consisting of the following persons, appointed by the senior resident superior court judge with the concurrence of the district attorney for that district:

(1) A judge of the superior court;
(2) A judge of the district court;
(3) A district attorney or assistant district attorney;
(4) A public defender or assistant public defender in judicial districts served by a public defender;
(5) A member of the private criminal defense bar;
(6) A clerk of superior court;

(7) The trial court administrator in judicial districts served by a trial court administrator;
(8) A probation officer;
(9) A local law enforcement officer;
(10) A representative of the local community college;
(11) A representative of the treatment providers;
(12) The local program director provided for in G.S. 7A-798; and
(13) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court."

(g) G.S. 7A-798 reads as rewritten:

"**§ 7A-798. Drug treatment court grant application; local program director.**

(a) ~~Grant applications for the pilot programs~~ Applications for funding to develop or implement local drug treatment court programs shall be submitted to the Director of the Administrative Office of the Courts, in such form and with such information as the Director may require consistent with the provisions of this Article. ~~Grants shall be awarded to two or more judicial districts that submit the most comprehensive and feasible plans for the implementation and operation of a drug treatment court.~~ The Director shall award and administer grants in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and may adopt rules for the implementation, operation, and monitoring of grant-funded programs.

(b) Grant applications shall specify a local program ~~director~~ administrator who shall be responsible for ~~local administration of the project.~~ the local program. Grant funds may be used to fund a full-time or part-time local program director ~~position.~~ position and other necessary staff. The ~~local program director~~ staff may be ~~an employee~~ employees of the grant recipient, ~~an employee~~ employees of the court, or ~~a~~ grant-established ~~position~~ positions under the senior resident superior court judge or chief district court judge."

(h) G.S. 7A-800 reads as rewritten:

"**§ 7A-800. Payment of costs of treatment program.**

Each defendant or offender shall contribute to the cost of the substance abuse treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee."

(i) G.S. 7A-801 reads as rewritten:

"**§ 7A-801. Plan for evaluation.**

~~Each grant application requesting funding for the pilot program shall include a method for evaluating the pilot program's effectiveness, based upon the goals stated in G.S. 7A-792.~~ The Administrative Office of the Courts shall develop a statewide model and conduct ongoing evaluations of all local drug treatment court programs. A report of these evaluations shall be submitted to the General Assembly by March 1 of each year. Each ~~funded~~ local drug treatment court program shall submit evaluation reports to the Administrative Office of the Courts as requested. ~~Additionally, the Administrative~~

~~Office of the Courts shall be responsible for developing an evaluation model on the State level to compare the effectiveness of all pilot programs and shall submit a report to the General Assembly by May 1, 1998~~."

(j) Section 9(a) of S.L. 1998-23 is repealed.

(k) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

ADDITIONAL DISTRICT COURT JUDGES

Section 16.16. (a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	4	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	3	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	~~4~~5	Pitt
3B	5	Craven
		Pamlico
		Carteret
4	~~6~~7	Sampson
		Duplin
		Jones
		Onslow
5	6	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	~~6~~7	Nash
		Edgecombe

		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	1	Warren
		(part of Vance
		see subsection (b))
10	~~12~~13	Wake
11	~~6~~7	Harnett
		Johnston
		Lee
12	~~8~~9	Cumberland
13	5	Bladen
		Brunswick
		Columbus
14	~~5~~6	Durham
15A	3	Alamance
15B	4	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3	Stokes
		Surry
18	11	Guilford
19A	3	Cabarrus
19B	~~5~~6	Montgomery
		Moore
		Randolph
19C	~~3~~4	Rowan
20	7	Stanly
		Union
		Anson
		Richmond
21	~~7~~8	Forsyth
22	8	Alexander
		Davidson

		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	7	Burke
		Caldwell
		Catawba
26	~~14~~15	Mecklenburg
27A	5	Gaston
27B	4	Cleveland
		Lincoln
28	5	Buncombe
29	~~5~~6	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	4	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

(b) The Governor shall appoint additional district court judges for District Court Districts 3A, 4, 7, 10, 11, 12, 14, 19B, 19C, 21, 26, and 29 as authorized by subsection (a) of this section no later than June 30, 1999. Those judges' successors shall be elected in the 2002 election for four-year terms commencing on the first Monday in December 2002.

(c) Subsection (a) of this section becomes effective December 15, 1998, as to any district where no county is subject to section 5 of the Voting Rights Act of 1965. As to any district where any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective December 15, 1998, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

ADDITIONAL SUPERIOR COURT JUDGE

Section 16.16A. (a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
	3A	Pitt	2
	3B	Carteret, Craven, Pamlico	2
	4A	Duplin, Jones, Sampson	1
	4B	Onslow	1
	5	New Hanover, Pender	3
	6A	Halifax	1
	6B	Bertie, Hertford, Northampton	1
	7A	Nash	1
	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
	8A	Lenoir and Greene	1
	8B	Wayne	1
Second	9	Franklin, Granville, Vance, Warren	2
	9A	Person, Caswell	1
	10A	(part of Wake,	2

		see subsection (b))	
	10B	(part of Wake, see subsection (b))	2
	10C	(part of Wake, see subsection (b))	1
	10D	(part of Wake, see subsection (b))	1
	11A	Harnett, Lee	1
	11B	Johnston	1
	12A	(part of Cumberland, see subsection (b))	1
	12B	(part of Cumberland, see subsection (b))	1
	12C	(part of Cumberland, see subsection (b))	2
	13	Bladen, Brunswick, Columbus	2
	14A	(part of Durham, see subsection (b))	1
	14B	(part of Durham, see subsection (b))	3
	15A	Alamance	2
	15B	Orange, Chatham	1
	16A	Scotland, Hoke	1
	16B	Robeson	2
Third	17A	Rockingham	2
	17B	Stokes, Surry	2
	18A	(part of Guilford, see subsection (b))	1
	18B	(part of Guilford, see subsection (b))	1
	18C	(part of Guilford, see subsection (b))	1
	18D	(part of Guilford, see subsection (b))	1
	18E	(part of Guilford, see subsection (b))	1
	19A	Cabarrus	1
	19B	Montgomery, Moore, Randolph	2
	19C	Rowan	1
	20A	Anson, Richmond	1

	20B	Stanly, Union	~~2~~ 3
	21A	(part of Forsyth, see subsection (b))	1
	21B	(part of Forsyth, see subsection (b))	1
	21C	(part of Forsyth, see subsection (b))	1
	21D	(part of Forsyth, see subsection (b))	1
	22	Alexander, Davidson, Davie, Iredell	2
	23	Alleghany, Ashe, Wilkes, Yadkin	1
Fourth	24	Avery, Madison, Mitchell, Watauga, Yancey	1
	25A	Burke, Caldwell	2
	25B	Catawba	2
	26A	(part of Mecklenburg, see subsection (b))	2
	26B	(part of Mecklenburg, see subsection (b))	2
	26C	(part of Mecklenburg, see subsection (b))	2
	27A	Gaston	2
	27B	Cleveland, Lincoln	2
	28	Buncombe	2
	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
	30A	Cherokee, Clay, Graham, Macon, Swain	1
	30B	Haywood, Jackson	1".

(b) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 20B as authorized by subsection (a) of this section. The successor to that judge shall be elected in the 2000 general election to serve the remainder of the unexpired term expiring December 31, 2006. This is to provide unstaggered terms for multiple judgeships in the same district.

(c) Subsection (a) of this section becomes effective January 15, 1999, or the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

Requested by: Senators Plyler, Perdue, Odom, Ballance, Representatives Holmes, Esposito, Creech, Crawford, Daughtry

STUDY REORGANIZATION OF SUPERIOR COURT DIVISIONS AND IMPLEMENTATION OF CIRCUIT COURT PILOTS

Section 16.17A. (a) The Chief Justice of the Supreme Court is requested to convene a task force including members of both the North Carolina Association of District Court Judges and the North Carolina Conference of Superior Court Judges to study and make recommendations for (i) the reorganization and expansion of the Superior Court Division of the General Court of Justice into no fewer than eight but no more than twelve judicial divisions in a manner that does not divide any existing judicial districts; and (ii) the establishment of pilot programs in up to three of the new judicial divisions for the implementation and operation of "circuit courts" as proposed by the Commission for the Future of Justice and the Courts in North Carolina.

(b) The Administrative Office of the Courts shall report to the General Assembly by March 1, 1999, on the results of its study. The report shall:

(1) Contain a specific recommendation for the most appropriate reorganization of the Superior Court Division as described in subsection (a) of this section;

(2) Address population, case filings, travel distances, and any other factors that the task force considered in developing the recommendation;

(3) Set forth any personnel and equipment needed to implement the "circuit court" pilot programs; and

(4) Include any statutory changes or other legislation necessary to implement the pilot programs.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

EVALUATION OF CORRECTIONAL PROGRAMS

Section 16.18. (a) The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, and the Department of Correction shall jointly conduct ongoing evaluations of community corrections programs and in-prison treatment programs and make a biennial report to the General Assembly. The report shall include composite measures of program effectiveness based on recidivism rates, other outcome measures, and costs of the programs.

During the 1998-99 fiscal year, the Sentencing and Policy Advisory Commission shall coordinate the collection of all data necessary to create an expanded database containing offender information on prior convictions, current conviction and sentence, program participation, and outcome measures. Each program to be evaluated shall assist the Commission in the development of systems and collection of data necessary to complete the evaluation process. The first evaluation report shall be presented to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 15, 2000, and future reports shall be made by April 15 of each even-numbered year.

The Judicial Department may use the sum of fifty thousand dollars ($50,000) in funds appropriated for the 1998-99 fiscal year to conduct the study provided for in this section.

(b) Section 22.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session is repealed.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Baddour, Redwine

ESTABLISH PILOT PROGRAM OF SETTLEMENT PROCEDURES IN DISTRICT COURT ACTIONS INVOLVING FAMILY ISSUES

Section 16.19. (a) G.S. 7A-38.4 reads as rewritten:

"**§ 7A-38.4. ~~Mediated settlement conferences~~ Settlement procedures in district court actions.**

(a) The purpose of this section is to authorize the design, implementation, and evaluation of a pilot program in which parties to district court actions involving equitable distribution, alimony, and support may be required to attend a pretrial mediated settlement conference or other settlement procedure.

~~(b) The Dispute Resolution Commission established under the Judicial Department shall, with the advice of the Director of the Administrative Office of the Courts, design the pilot program and its coordination with existing settlement programs. The planning and design phase of the program shall include representatives from the Conference of Chief District Court Judges, the AOC Child Custody Mediation Advisory Committee, the Court Ordered Arbitration Subcommittee of the Supreme Court's Dispute Resolution Committee, the North Carolina Mediation Network, the North Carolina Association of Professional Family Mediators, the North Carolina Association of Clerks of Superior Court, the North Carolina Association of Trial Court Administrators, the Family Law Section of the North Carolina Bar Association, and the Dispute Resolution Section of the North Carolina Bar Association.~~

(c) The Supreme Court may adopt rules to implement this section. The definitions in G.S. 7A-38.1(b)(2) and (b)(3) apply to this section.

(d) ~~The chief district court judge~~ District court judges of any participating district may order a mediated settlement conference or another settlement procedure for any action pending in the district involving issues of equitable distribution, alimony, or child or spousal ~~support.~~ support, pursuant to rules adopted by the Supreme Court. The chief district court judge may by local rule order all such cases, not otherwise exempted by Supreme Court rule, to mediated settlement conference.

(e) The parties to a district court action in which a mediated settlement conference is ordered, their attorneys, and other persons or entities with authority, by law or by contract, to settle the parties' claims shall attend the mediated settlement conference, or other settlement procedure ordered by ~~the court,~~ a district court judge pursuant to rules of the Supreme Court, unless excused by ~~the rules of the Supreme Court or by order of the chief district court judge.~~ those rules. Nothing in this section shall require any party or other participant in the conference to make a settlement offer or demand which it deems is contrary to its best interests.

(f) Any person required to attend a mediated settlement conference or other settlement procedure ordered by the court who, without good cause, fails to attend in compliance with this section and the rules adopted under this section, shall be subject to any appropriate monetary sanction imposed by a ~~chief or presiding~~ district court ~~judge,~~ judge pursuant to rules of the Supreme Court, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the ~~conference.~~ settlement procedure. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal where the entire record as submitted shall be reviewed to determine whether the order is supported by substantial evidence.

(g) The parties to a district court action in which a mediated settlement conference is to be held pursuant to this section shall have the right to designate a mediator. Upon failure of the parties to designate within the time established by the rules of the Supreme Court, a mediator shall be appointed by ~~the chief~~ a district court judge ~~or its designee.~~ pursuant to rules of the Supreme Court.

(h) ~~The~~ Pursuant to rules of the Supreme Court, a chief district court judge, at the request of a party and with the consent of ~~the~~ all parties, may order the parties to attend and participate in any other settlement procedure authorized by rules ~~of~~ adopted by the Supreme Court or adopted by local district court rules, in lieu of attending a mediated settlement conference. ~~Neutral third parties~~ Neutrals acting pursuant to this section shall be selected and compensated in accordance with ~~the~~ rules of the Supreme Court or pursuant to agreement of the parties. Nothing herein shall prohibit the parties from participating in other dispute resolution procedures, including arbitration, to the extent authorized under State or federal law.

(i) Mediators and other neutrals acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court pursuant to G.S. 7A-38.2.

(j) Costs of mediated settlement conferences and other settlement procedures shall be borne by the parties. Unless otherwise ordered by the court or agreed to by the parties, the mediator's fees shall be paid in equal shares by the parties. The rules adopted by the Supreme Court implementing this section shall set out a method whereby parties found by the court to be unable to pay the costs of settlement procedures are afforded an opportunity to participate without cost to an indigent party and without expenditure of State funds.

(k) Evidence of statements made and conduct occurring in a ~~mediated settlement conference~~ settlement proceeding conducted pursuant to this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a ~~mediated settlement conference.~~ settlement proceeding.

No mediator, or other neutral conducting a settlement procedure pursuant to this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediated settlement conference or other settlement

procedure in any civil proceeding for any purpose, except proceedings for sanctions under this section, disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators, and proceedings to enforce laws concerning juvenile or elder abuse.

(l) The Supreme Court may adopt standards for the certification and conduct of mediators and other neutrals who participate ~~in the mediated settlement conference program established~~ settlement procedures conducted pursuant to this section. The standards may also regulate mediator training programs. The Supreme Court may adopt procedures for the enforcement of those standards. The administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission.

(m) An administrative fee not to exceed two hundred dollars ($200.00) may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediator training programs operation under this section. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. The administrative fee shall be set by the Director of the Administrative Office of the Courts in consultation with the Dispute Resolution Commission.

(n) The Administrative Office of the Courts, in consultation with the Dispute Resolution Commission, may require the chief district court judge of any participating district to report statistical data about settlement procedures conducted pursuant to this section for administrative purposes.

~~(m)~~ (o) Nothing in this section or rules adopted pursuant to it shall restrict the right to jury trial."

(b) G.S. 7A-38.2(c) reads as rewritten:

"(c) The Dispute Resolution Commission shall consist of ~~nine~~ 14 members: ~~two~~ five judges appointed by the Chief Justice of the Supreme ~~Court;~~ Court, at least two of whom shall be superior court judges, and at least two of whom shall be district court judges; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State Bar; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Members shall initially serve four-year terms, except that one judge, one mediator, one attorney, and the citizen member appointed by the Governor, shall be appointed for an initial term of two years. ~~Members may serve no more than two consecutive terms.~~ Incumbent members as of September 30, 1998, shall serve the remainder of the terms to which they were appointed. Members appointed to newly created membership positions effective October 1, 1998, shall serve initial terms of two years. Thereafter, members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. The

Chief Justice shall designate one of the ~~judge~~ members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Association of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts."

(c) Effective October 1, 1999, G.S. 7A-38.2(c), as rewritten by subsection (b) of this section, reads as rewritten:

"(c) The Dispute Resolution Commission shall consist of 14 members: five judges appointed by the Chief Justice of the Supreme Court, at least two of whom shall be superior court judges, and at least two of whom shall be district court judges; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State ~~Bar;~~ Bar, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Members shall initially serve four-year terms, except that one judge, one mediator, one attorney, and the citizen member appointed by the Governor, shall be appointed for an initial term of two years. Incumbent members as of September 30, 1998 shall serve the remainder of the terms to which they were appointed. Members appointed to newly-created membership positions effective October 1, 1998 shall serve initial terms of two years. Thereafter, members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. The Chief Justice shall designate one of the members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Association of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of

Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts."

(d) The Administrative Office of the Courts may solicit and accept funds from private sources to evaluate the pilot program conducted pursuant to this section. The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2001.

(e) Of the funds appropriated to the Judicial Department for the 1998-99 fiscal year, the sum of fifty thousand dollars ($50,000) shall be used to fund the activities of the Dispute Resolution Commission in association with the pilot program authorized by this section. No such funds shall be expended for the payment of mediator fees.

(f) Subsection (e) of this section becomes effective July 1, 1998. Subsection (c) of this section becomes effective October 1, 1999. The remainder of this section becomes effective October 1, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

Section 16.20. (a) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	13
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	15
8	Greene, Lenoir, Wayne	11

9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	4
10	Wake	28
11	Harnett, Johnston, Lee	14
12	Cumberland	17
13	Bladen, Brunswick, Columbus	9
14	Durham	~~12~~ 13
15A	Alamance	7
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	9
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	26
19A	Cabarrus	5
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5
20	Anson, Richmond, Stanly, Union	14
21	Forsyth	~~15~~ 17
22	Alexander, Davidson, Davie, Iredell	16
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	14
26	Mecklenburg	32
27A	Gaston	12
27B	Cleveland, Lincoln	8
28	Buncombe	10
29	Henderson, McDowell, Polk, Rutherford, Transylvania	11
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	~~7~~ 8

(b) This section becomes effective December 1, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Redwine

ADDITIONAL INVESTIGATORIAL ASSISTANTS

Section 16.21. G.S. 7A-69 reads as rewritten:

"**§ 7A-69. Investigatorial assistants.**

The district attorney in prosecutorial districts 1, 3B, 4, 6B, 7, 8, 10, 11, 12, 13, 14, 15A, 15B, 18, 19B, 20, 21, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one investigatorial assistant to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Daughtry, Hardy, Neely

ADD SPECIAL SUPERIOR COURT JUDGE/CLARIFY TERMS OF EXISTING SPECIAL SUPERIOR COURT JUDGES

Section 16.22. (a) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a3) Effective December 15, 1998, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

(b) G.S. 7A-45.1(a2) reads as rewritten:

"(a2) Effective December 15, 1996, the Governor may appoint four special superior court judges to serve terms expiring ~~December 14, 2001.~~ five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

REPORTS ON VACANT POSITIONS

Section 16.23. The Judicial Department, the Department of Correction, the Department of Justice, and the Department of Crime Control and Public Safety shall each report by February 1 of each year to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on all positions within that department that have remained vacant for 12 months or more. The report shall include the original position vacancy dates, the dates of any postings or repostings of the positions, and an explanation for the length of the vacancies.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

PROJECT CHALLENGE REPORT

Section 16.24. Subsection (a) of Section 18.20 of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated in this act to the Administrative Office of the Courts for the ~~1997-98 fiscal year,~~ 1997-99 biennium, the sum of one hundred thousand dollars ($100,000) for the 1997-98 fiscal year and the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year shall be used to support the operation of Project Challenge North Carolina, Inc., a nonprofit corporation that provides alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined in District Court ~~District~~ Districts 24, 25, 29, and 30 and for expansion of the ~~program.~~ program into additional districts. The funds shall be used to:

(1) Provide community resources and dispositional alternatives for juveniles in the form of community services, including services to the elderly and economically disadvantaged;

(2) Promote the involvement of juveniles in community programs that instill in juveniles pride in their communities and develop self-respect and the skills needed for them to be productive, responsible members of their communities;

(3) Coordinate with the local schools and State and local law enforcement to educate juveniles regarding the justice system and to promote respect for authority and an appreciation of societal laws and mores; and

(4) Collaborate with community agencies and organizations to provide guidance to and positive role models for juveniles."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, McCrary

RECONFORM THE MILEAGE REIMBURSEMENT FOR OUT-OF-STATE WITNESSES TO THAT RECEIVED BY IN-STATE WITNESSES AND STATE EMPLOYEES

Section 16.25. (a) G.S. 7A-314(c) reads as rewritten:

"(c) A witness who resides in a state other than North Carolina and who appears for the purpose of testifying in a criminal action and proves his attendance may be compensated at the rate ~~of ten cents (10¢) a mile~~ allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a) for one round-trip from his place of residence to the place of appearance, and five dollars ($5.00) for each day that he is required to travel and attend as a witness, upon order of the court based upon a finding that the person was a necessary witness. If such a witness is required to appear more than one day, he is also entitled to reimbursement for actual expenses incurred for lodging and meals, not to exceed the maximum currently authorized for State employees."

(b) G.S. 15A-813 reads as rewritten:

"**§ 15A-813. Witness from another state summoned to testify in this State.**

If a person in any state which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court, stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this State he shall be ~~tendered the sum of ten cents (10¢) a mile~~ compensated at the rate allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a) for each mile by the ordinary traveled route to and from the court where the prosecution is pending, and five dollars ($5.00) for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate unless otherwise ordered by the court. If such a witness is required to appear more than one day, he is also entitled to reimbursement for actual expenses incurred for lodging and meals, not to exceed the maximum currently authorized for State employees when traveling in the State. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State."

(c) This section is effective when it becomes law and applies to all out-of-state witness travel expenses incurred on or after that date.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

COMPUTER REPLACEMENT FUNDS

Section 16.26. The Judicial Department may use up to the sum of five hundred thousand dollars ($500,000) from funds available during the 1998-99 fiscal year to replace computers and associated equipment in response to computer-related problems that may occur during the fiscal year and to purchase additional hardware or software necessary to complete the upgrade of the mainframe computer system. Prior to spending funds for these purposes, the Department shall report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds.

Requested by: Senators Odom, Gulley, Ballance, Rand, Wellons, Representatives Daughtry, Justus, Kiser, Thompson, Sexton

INCREASE COMPENSATION FOR EMERGENCY JUDGES

Section 16.27. (a) G.S. 7A-52(b) reads as rewritten:

"(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's actual expenses, plus ~~two hundred dollars ($200.00)~~ three hundred dollars ($300.00) for each day of active service rendered upon recall. No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled."

(b) The Judicial Department may use funds available to the Department for the 1998-99 fiscal year to provide the increase in compensation to emergency judges provided for in this section.

PART XVII. DEPARTMENT OF CORRECTION

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

REALLOCATE LAND TO NC STATE UNIVERSITY

Section 17. (a) The 17.4-acre tract of State-owned land adjacent to Schenck Forest that is described in the Memorandum of Agreement made in October 1992, by and between the North Carolina Department of Correction and North Carolina State University, is reallocated to North Carolina State University. The land shall be used for the purpose of teaching, research, and extension, including timber management practices, and forestry demonstration purposes associated with the North Carolina State University College of Forest Resources. North Carolina State University shall maintain this land in good condition according to current timber management practices.

(b) This section is effective when this act becomes law.

Requested by: Senators Gulley, Ballance, Representatives Justus, Kiser, Thompson

REPORT ON BOOT CAMPS

Section 17.1. Subsection (c) of Section 19 of Chapter 24 of the Session Laws of the 1994 Extra Session, as amended by Section 19.3 of Chapter 324 of the 1995 Session Laws, reads as rewritten:

"(c) The Department of Correction shall evaluate the IMPACT program and the post-Boot Camp probation program funded under this section and report by ~~January 1~~ March 1 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, and the Fiscal Research Division. The evaluation of the IMPACT program and the post-Boot Camp probation program shall ~~include a comparison of that program's effectiveness, cost, and recidivism rate to other corrections programs for offenders in the same age group and similar offense classes as that covered by the IMPACT program.~~ focus on the performance, behavior, and attitudes of the offenders while in the program. Specific topics shall include measures of participation and completion, data on completion of educational, substance abuse treatment, and community service programs, drug testing and probation revocation statistics, and the current status of IMPACT graduates. The

evaluation shall also include any available information on the difference in outcome among offenders who attend the IMPACT program only, offenders who attend both the IMPACT program and aftercare, and similar offenders who receive other intermediate sanctions."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

Section 17.2.Section 19(b) of S.L. 1997-443 reads as rewritten:

"(b) The Department of Correction may use funds appropriated to the Department for the 1997-99 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates and parolees and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Prior to the expenditure of more than the sum of six million five hundred thousand dollars ($6,500,000) for the 1997-98 fiscal year or more than the sum of ~~four million dollars ($4,000,000)~~ two million dollars ($2,000,000) for the 1998-99 fiscal year to reimburse counties for prisoners awaiting transfer, the Department of Correction and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental ~~Operations~~ Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the necessity of that expenditure."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Thompson, Kiser, Sexton

INMATE HOUSING FUNDS

Section 17.3. (a) The Department of Correction may use funds available to the Department for the 1998-99 fiscal year to contract for prison beds to house inmates in local jails. Prior to the expenditure of more than the sum of three million dollars ($3,000,000) in additional funds authorized by this section to contract for local jail beds, the Department of Correction and the Office of State Budget and Management shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the necessity of that expenditure.

(b) The Department of Correction and the Office of State Budget and Management shall report by December 1, 1998, to the Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee, the Chairs of the Senate and

House Appropriations Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the status of contracts to house inmates in local jails, including the amount expended to date, the anticipated amount to be expended, and the dates each contract is expected to terminate.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

USE OF FACILITIES CLOSED UNDER GPAC

Section 17.4. Subsection (a) of Section 19.4 of S.L. 1997-443 reads as rewritten:

"(a) In conjunction with the closing of small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is ~~located or any private for-profit or nonprofit firm~~ located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and ~~its future needs, the Department~~ the future needs of the Department of Correction, the State may provide for the transfer or the lease ~~for 20 years or more~~ of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Human Resources pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee. The Department of Correction shall also provide quarterly summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT

Section 17.5. Subsection (a) of Section 19.8 of S.L. 1997-443 reads as rewritten:

"(a) Notwithstanding the funding formula set forth in G.S. 143B-273.15, ~~grants~~ appropriations made to the Department of Correction through the North Carolina State-

County Criminal Justice Partnership Act for the ~~1997-98 fiscal year~~ 1997-99 biennium shall be distributed to the counties as specified in G.S. 143B-273.15(2) only, and not as discretionary funds. The Department may also use funds from the State-County Criminal Justice Partnership Account in order to maintain the counties' allocations of nine million six hundred thousand dollars ($9,600,000) as provided in previous fiscal years. Appropriations not claimed or expended by the counties during the 1997-99 biennium shall be distributed as specified in G.S. 143B-273.15(1)."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

PROGRESS REPORT/PERFORMANCE AUDIT OF DIVISION OF ADULT PROBATION AND PAROLE

Section 17.6. The Division of Adult Probation and Parole shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division by January 1, 1999, on any actions taken or planned in response to the June 1, 1998, performance audit of the Division. The report shall include details on any changes in funding, classification, staffing levels, or organization structure that have occurred since the June 1 audit and should highlight those changes that are directly related to issues raised in the audit.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

FUNDING OF PRISON ROAD SQUADS

Section 17.7. In preparing the continuation budget, the Office of State Budget and Management shall adjust the estimated receipts from the Highway Fund to the Department of Correction for the use of prison road squads to reflect only those costs authorized for reimbursement by G.S. 148-26.5.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

INMATE COSTS

Section 17.8. Section 19.20 of S.L. 1997-443 reads as rewritten:

"Section 19.20. The Department of Correction may use funds available to the Department for the 1997-99 biennium to pay the cost of providing food and health care to inmates housed in the Division of Prisons ~~if:~~

~~(1) The prison population exceeds the December 1996 population projections of the North Carolina Sentencing and Policy Advisory Commission; and~~

~~(2) The~~ if the cost of providing food and health care to inmates is anticipated to exceed the continuation budget amounts provided for that purpose in this act.

Prior to making any expenditure authorized by this section, the Department of Correction shall report on its need to use these additional funds to the Joint Legislative Commission on Governmental Operations, ~~the Joint Legislative Corrections Oversight Committee, and~~ the Chairs of the House and Senate Appropriations ~~Committees.~~ Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety.

The Office of State Budget and Management, in consultation with the Department of Correction, shall (i) analyze the basis for increases in the cost of providing food service and health care to inmates since the 1994-95 fiscal year, including an analysis of the major areas of expenditure growth, and an identification of major areas where cost-efficient actions have been taken, and (ii) determine future actions that will improve efficiency in the delivery of food service and health care to inmates. The Office of State Budget and Management shall report on the results of this study to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by February 15, 1999."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

TITLE VII FUNDS/REPORT

Section 17.9. Section 19.18 of S.L. 1997-443 reads as rewritten:

"Section 19.18. The Department of Correction may use funds available to the Department during the ~~1997-98 fiscal year~~ 1997-99 biennium for payment to claimants as part of the settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females in the Department. Prior to final settlement of the lawsuit, the Department shall report on the proposed settlement to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

DIRECT CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO REVISE HIRING AND RECORD-KEEPING PROCEDURES FOR EMPLOYEES OF DEPARTMENT OF CORRECTION

Section 17.10. (a) Section 19.28 of S.L. 1997-443 reads as rewritten:

"Section 19.28. No later than ~~June 30, 1998,~~ November 15, 1998, the Criminal Justice Education and Training Standards Commission shall reestablish the hiring and record-keeping procedures for the employment of certified positions in the Department of Correction."

(b) The Criminal Justice Education and Training Standards Commission shall report by ~~October 1, 1998,~~ November 15, 1998, to the Joint Legislative Corrections and Crime Control Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on its progress in complying with the provisions of this section.

(c) This section becomes effective June 30, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

FEDERAL GRANT MATCHING FUNDS

Section 17.11. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of eight hundred seventy-five thousand dollars

($875,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Plyler, Kerr, Representatives Justus, Kiser, Thompson, Sexton

SUBSTANCE ABUSE FUNDS

Section 17.12. (a) The balance of the four hundred sixty-seven thousand eight hundred six dollars ($467,806) appropriated in S.L. 1997-443 to the Department of Correction for the 1997-98 fiscal year to be allocated to the DART/DWI aftercare program at Cherry Hospital shall not revert at the end of the fiscal year but shall remain available to the Department during the 1998-99 fiscal year to be used as authorized in this section.

(b) Of the funds appropriated to the Department of Correction for the 1998-99 fiscal year and the funds available pursuant to subsection (a) of this section:

(1) The Department may use up to the sum of three hundred nineteen thousand seven hundred fifteen dollars ($319,715) for DART/DWI aftercare;

(2) The Department may use up to the sum of one hundred twenty-five thousand dollars ($125,000) for contractual services for the Substance Abuse Program (i) to assist in identifying the type of program and management information that should be collected to allow for offender and inmate tracking and program evaluation; (ii) for staff training related to the tracking and evaluation system described in this subsection; and (iii) for other staff training, with priority given to training in proper screening and assessment procedures for identifying inmates with substance abuse problems.

(3) The sum of one hundred thousand dollars ($100,000) shall be placed in a reserve for the purchase of hardware and software needed to implement the offender and inmate tracking and program evaluation system for the Substance Abuse Program developed pursuant to subdivision (b)(2) of this section.

The Department shall report by December 15, 1998, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on their progress in identifying and retaining consultants to assist in developing a plan for an offender and inmate tracking and program evaluation system. Funds in the reserve established in subdivision (3) of this section may not be allocated for this purpose until the Department has submitted a plan for an offender and inmate tracking and program evaluation system. If the Department has presented its final plan in writing to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by

March 15, 1999, funds in the reserve may be allocated for implementation of the plan. If the Department has not submitted its plan by March 15, 1999, the funds shall be allocated by the 1999 General Assembly.

(c) Any funds remaining after the Department of Correction has used the authorized funds for the purposes provided by subsection (b) of this section may be used for innovative pilot projects for offenders with substance abuse problems and for the expansion of program evaluation of the Substance Abuse Program.

(d) The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

(1) Details of any new initiatives and expansion or reduction of programs;

(2) Details on any treatment efforts conducted in conjunction with other departments;

(3) Utilization of the DART/DWI program, including its aftercare program;

(4) Progress in the development of an offender and inmate tracking and program evaluation system; and

(5) A report on the number of current inmates with substance abuse problems, the numbers currently receiving treatment, and the numbers who have completed treatment. As an offender and inmate tracking system becomes operational, this report shall also include information on the recidivism of inmates who have previously completed substance abuse treatment and been released from prison.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

Section 17.13. The Post-Release Supervision and Parole Commission shall report by March 1, 1999, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and upon request of the Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee to that Committee after March 1, 1999, on:

(1) The Commission's progress in reviewing cases requiring review in light of the decision of the North Carolina Supreme Court in **Robbins v. Freeman**; and

(2) An updated transition plan for implementing staff reductions through the 2002-2003 fiscal year, including a minimum ten percent (10%) reduction in staff positions in the 1999-2000 fiscal year over the 1998-99 fiscal year.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

PRIVATE PRISON CONTRACTS

Section 17.14. If the Department of Correction determines, in consultation with the Attorney General's Office, the Office of State Budget and Management, and the Corrections Corporation of America, that it is appropriate to make a significant modification of the financial terms of the contracts for the leasing and operation of one or both of the two private confinement facilities in Pamlico and Avery/Mitchell, the Department may use funds available to the Department for the 1998-99 fiscal year to modify the lease contract and the operating agreement as necessary. Prior to taking actions or obligating funds as authorized by this section, the Department of Correction shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the justification for using available funds to modify the contracts.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

STUDY SPECIAL EDUCATION OBLIGATIONS OF DEPARTMENT OF CORRECTION

Section 17.15. The Joint Legislative Education Oversight Committee and the Joint Legislative Corrections and Crime Control Oversight Committee shall study the issue of limiting the obligations of the Department of Correction to provide special education and related services to incarcerated youth ages 18 through 21. The Committees shall consider the recent amendment to the federal Individuals with Disabilities Education Act (IDEA) that allows states to reduce the responsibility of their prisons to identify and serve inmates not previously identified and served in the public schools. The Committees shall report their findings and recommendations to the 1999 General Assembly.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Cooper, Representatives Justus, Kiser, Thompson, Sexton

ADDITIONAL PRISON BEDS/PROVIDE THAT A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE SHALL BE IMPOSED FOR A SECOND OR SUBSEQUENT CONVICTION OF A CLASS B1 FELONY IF THERE ARE NO MITIGATING CIRCUMSTANCES AND THE VICTIM IS THIRTEEN YEARS OF AGE OR YOUNGER/ENHANCE THE PUNISHMENT IMPOSED FOR INJURING A PREGNANT WOMAN IN THE COMMISSION OF A FELONY, OR ACT OF DOMESTIC VIOLENCE, CAUSING A MISCARRIAGE OR STILLBIRTH/INCREASE THE PENALTY FOR CRUELTY TO ANIMALS AND PROHIBIT GREYHOUND RACING IN NORTH CAROLINA/INCREASE OR ESTABLISH CRIMINAL AND CIVIL PENALTIES FOR THE OFFENSES OF SELLING DRUGS TO A MINOR, HIRING OR INTENTIONALLY USING A MINOR TO COMMIT A DRUG

LAW VIOLATION, AND PURCHASING OR RECEIVING DRUGS FROM A MINOR/CLARIFY A LANDLORD'S OBLIGATION TO INSTALL SMOKE DETECTORS, REQUIRE A TENANT TO NOTIFY A LANDLORD IN WRITING IF A SMOKE DETECTOR NEEDS TO BE REPLACED OR REPAIRED, IMPOSE A CIVIL PENALTY IF A LANDLORD FAILS TO PROVIDE, INSTALL, REPLACE, OR REPAIR A SMOKE DETECTOR IN A RESIDENTIAL RENTAL DWELLING, AND IMPOSE A CIVIL PENALTY IF A TENANT INTERFERES OR MAKES INOPERATIVE A SMOKE DETECTOR IN A RESIDENTIAL RENTAL DWELLING

Section 17.16. (a) Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1340.16B. Life imprisonment without parole for a second or subsequent conviction of a Class B1 felony.**

(a) Notwithstanding the sentencing dispositions in G.S. 15A-1340.17, a person convicted of a Class B1 felony shall be sentenced to life imprisonment without parole if:

(1) The offense was committed against a victim who was 13 years of age or younger at the time of the offense;

(2) The person has one or more prior convictions of a Class B1 felony; and

(3) The court finds that there are no mitigating factors in accordance with G.S. 15A-1340.16(e).

(b) If the sentencing court finds that there are mitigating circumstances, then the court shall sentence the person in accordance with G.S. 15A-1340.17.

(c) A prior conviction of a Class B1 felony shall be proved in accordance with G.S. 15A-1340.14."

(b) Article 6 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-18.2. Injury to pregnant woman.**

(a) Definitions. – The following definitions shall apply in this section:

(1) Miscarriage. – The interruption of the normal development of the fetus, other than by a live birth, and which is not an induced abortion permitted under G.S. 14-45.1, resulting in the complete expulsion or extraction from a pregnant woman of the fetus.

(2) Stillbirth. – The death of a fetus prior to the complete expulsion or extraction from a woman irrespective of the duration of pregnancy and which is not an induced abortion permitted under G.S. 14-45.1.

(b) A person who in the commission of a felony causes injury to a woman, knowing the woman to be pregnant, which injury results in a miscarriage or stillbirth by the woman is guilty of a felony that is one class higher than the felony committed.

(c) A person who in the commission of a misdemeanor that is an act of domestic violence as defined in Chapter 50B of the General Statutes causes injury to a woman, knowing the woman to be pregnant, which results in miscarriage or stillbirth by the woman is guilty of a misdemeanor that is one class higher than the misdemeanor

committed. If the offense was a Class A1 misdemeanor, the defendant is guilty of a Class I felony.

(d) This section shall not apply to acts committed by a pregnant woman which result in a miscarriage or stillbirth by the woman."

(c) G.S. 14-360 reads as rewritten:

"**§ 14-360. Cruelty to animals; construction of section.**

(a) If any person shall ~~willfully~~ intentionally overdrive, overload, wound, injure, ~~torture,~~ torment, kill, or deprive of necessary sustenance, ~~cruelly beat, needlessly mutilate or kill~~ or cause or procure to be overdriven, overloaded, wounded, injured, ~~tortured,~~ tormented, killed, or deprived of necessary sustenance, ~~cruelly beaten, needlessly mutilated or killed as aforesaid, any useful beast, fowl or~~ any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor. ~~In this section, and in every law which may be enacted relating to animals, the words "animal"and "dumb animal"shall be held to include every living creature; the words "torture,""torment"or "cruelty"shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.~~

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class I felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words 'torture', 'torment', and 'cruelly' include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word 'intentionally' refers to an act committed knowingly and without justifiable excuse, while the word 'maliciously' means an act committed intentionally and with malice or bad motive. As used in this section, the term 'animal' includes every living vertebrate except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. 113-129(15a);

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock or poultry;

(3) Activities conducted for lawful veterinary purposes; or

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health."

(d) Article 37 of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 3. Greyhound Racing.

"**§ 14-309.20. Greyhound racing prohibited.**

(a) No person shall hold, conduct, or operate any greyhound races for public exhibition in this State for monetary remuneration.

(b) No person shall transmit or receive interstate or intrastate simulcasting of greyhound races for commercial purposes in this State.

(c) Any person who violates this section shall be guilty of a Class 1 misdemeanor."

(e) G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1), (2) Repealed by Session Laws 1979, c. 760, s. 5.

(3) If any person commits a Class 1 misdemeanor under this Article and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I felon. The prior conviction used to raise the current offense to a Class I felony shall not be used to calculate the prior record level;

(4) If any person commits a Class 2 misdemeanor, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 1 misdemeanor. The prior conviction used to raise the current offense to a Class 1 misdemeanor shall not be used to calculate the prior conviction level;

(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age but more than 13 years of age or a pregnant female shall be punished as a Class D felon. Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person who is 13 years of age or younger shall be punished as a Class C felon.Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant;

(6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and (e)(4), previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial;

(7) If any person commits an offense under this Article for which the prescribed punishment requires that any sentence of imprisonment be suspended, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 2 misdemeanor;

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for an elementary or secondary school or within 300 feet of the boundary of real property used for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class H felony."

(f) G.S. 90-95.4 reads as rewritten:

"**§ 90-95.4. Employing or intentionally using minor to commit a drug law violation.**

(a) A person who is at least 18 years old but less than 21 years old who hires or intentionally uses a minor to violate G.S. 90-95(a)(1) shall be guilty of a felony. An offense under this subsection shall be punishable as follows:

(1) If the minor was more than 13 years of age, then as a felony that is one class more severe than the violation of G.S. 90-95(a)(1) for which the minor was ~~hired.~~ hired or intentionally used.

(2) If the minor was 13 years of age or younger, then as a felony that is two classes more severe than the violation of G.S. 90-95(a)(1) for which the minor was hired or intentionally used.

(b) A person 21 years of age or older who hires or intentionally uses a minor to violate G.S. 90-95(a)(1) shall be guilty of a felony. An offense under this subsection shall be punishable as follows:

(1) If the minor was more than 13 years of age, then as a felony that is ~~two~~ three classes more severe than the violation of G.S. 90-95(a)(1) for which the minor was ~~hired.~~ hired or intentionally used.

(2) If the minor was 13 years of age or younger, then as a felony that is four classes more severe than the violation of G.S. 90-95(a)(1) for which the minor was hired or intentionally used.

(c) Mistake of Age. Mistake of age is not a defense to a prosecution under this section.

(d) The term 'minor' as used in this section is defined as an individual who is less than 18 years of age."

(g) G.S. 90-95.5 reads as rewritten:

"**§ 90-95.5. Civil liability - employing a minor to commit a drug offense.**

A person 21 years of age or older, who ~~hires or employs~~ hires, employs, or intentionally uses a person under 18 years of age to commit a violation of G.S. 90-95 is liable in a civil action for damages for drug addiction proximately caused by the violation. The doctrines of contributory negligence and assumption of risk are no defense to liability under this section."

(h) Article 5 of Chapter 90 of the General Statutes is amended by adding the following new sections to read:

"**§ 90-95.6. Promoting drug sales by a minor.**

(a) A person who is 21 years of age or older is guilty of promoting drug sales by a minor if the person knowingly:

(1) Entices, forces, encourages, or otherwise facilitates a minor in violating G.S. 90-95(a)(1).

(2) Supervises, supports, advises, or protects the minor in violating G.S. 90-95(a)(1).

(b) Mistake of age is not a defense to a prosecution under this section.

(c) A violation of this section is a Class D felony.

"**§ 90-95.7. Participating in a drug violation by a minor.**

(a) A person 21 years of age or older who purchases or receives a controlled substance from a minor 13 years of age or younger who possesses, sells, or delivers the controlled substance in violation of G.S. 90-95(a)(1) is guilty of participating in a drug violation of a minor.

(b) Mistake of age is not a defense to a prosecution under this section.

(c) A violation of this section is a Class G felony."

(i) G.S. 42-42(a) reads as rewritten:

"(a) The landlord shall:

(1) Comply with the current applicable building and housing codes, whether enacted before or after October 1, 1977, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building ~~code;~~ code.

(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable ~~condition;~~ condition.

(3) Keep all common areas of the premises in safe ~~condition;~~ condition.

(4) Maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by ~~him~~ the landlord provided that notification of needed repairs is made to the landlord in writing by the ~~tenant~~ tenant, except in emergency ~~situations; and~~ situations.

(5) Provide operable smoke detectors, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, ~~that are installed~~ and install the smoke detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. The landlord ~~must~~ shall replace or repair the smoke detectors within 15 days of receipt of notification ~~provided~~ if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement

to the contrary, the landlord ~~must~~ shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant ~~must~~ shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

(j) G.S. 42-43(a) reads as rewritten:

"(a) The tenant shall:

(1) Keep that part of the premises ~~which he~~ that the tenant occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises ~~which he uses;~~ that the tenant uses.

(2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe ~~manner;~~ manner.

(3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition ~~permits;~~ permits.

(4) Not deliberately or negligently destroy, deface, damage, or remove any part of the premises, nor render inoperable the smoke detector provided by the landlord, or knowingly permit any person to do ~~so;~~ so.

(5) Comply with any and all obligations imposed upon the tenant by current applicable building and housing ~~codes;~~ codes.

(6) Be responsible for all damage, defacement, or removal of any property inside a dwelling unit in ~~his~~ the tenant's exclusive control unless ~~said~~ the damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or ~~his~~ the landlord's agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural ~~forces; and~~ forces.

(7) Notify the ~~landlord~~ landlord, in writing, of the need for replacement of or repairs to a smoke detector. ~~Nothing in this bill shall prohibit an individual landlord in a written agreement with the tenant from requiring the tenant to provide notice in writing of the need for replacement of or repairs to a smoke detector.~~ The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord ~~must~~ shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant ~~must~~ shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

(k) G.S. 42-44 reads as rewritten:

"**§ 42-44. General ~~remedies~~ remedies, penalties, and limitations.**

(a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(a1) If a landlord fails to provide, install, replace, or repair a smoke detector under the provisions of G.S. 42-42(a)(5) within 30 days of having received written notice from the tenant or any agent of State or local government of the landlord's failure to do so, the landlord shall be responsible for an infraction and shall be subject to a fine of not more than two hundred fifty dollars ($250.00) for each violation. The landlord may temporarily disconnect a smoke detector in a dwelling unit or common area for construction or rehabilitation activities when such activities are likely to activate the smoke detector or make it inactive.

(a2) If a smoke detector is disabled or damaged, other than through actions of the landlord, the landlord's agents, or acts of God, the tenant shall reimburse the landlord the reasonable and actual cost for repairing or replacing the smoke detector within 30 days of having received written notice from the landlord or any agent of State or local government of the need for the tenant to make such reimbursement. If the tenant fails to make reimbursement within 30 days, the tenant shall be responsible for an infraction and subject to a fine of not more than one hundred dollars ($100.00) for each violation. The tenant may temporarily disconnect a smoke detector in a dwelling unit to replace the batteries or when it has been inadvertently activated.

(b) Repealed by Session Laws 1979, c. 820, s. 8.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so.

(d) A violation of this Article shall not constitute negligence per se."

(l) This section becomes effective January 1, 1999, and applies to offenses committed on or after that date.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Holmes, Esposito, Creech, Crawford, Justus, Kiser, Thompson, Sexton

DISCLOSURE OF CONVICTION OF CERTAIN CRIMES NOT REQUIRED IN SALE OR LEASE OF REAL PROPERTY

Section 17.16A. (a) G.S. 39-50 reads as rewritten:

"**§ 39-50. ~~Death or illness of previous occupant.~~ Death, illness, or conviction of certain crimes not a material fact.**

In offering real property for sale it shall not be deemed a material fact that the real property was occupied previously by a person who died or had a serious illness while occupying the ~~property;~~ property or that a person convicted of any crime for which registration is required by Article 27A of Chapter 14 of the General Statutes occupies, occupied, or resides near the property; provided, however, that no seller may knowingly make a false statement regarding ~~such past occupancy.~~ any such fact."

(b) G.S. 42-14.2 reads as rewritten:

"**§ 42-14.2. ~~Death or illness of previous occupant.~~ Death, illness, or conviction of certain crimes not a material fact.**

In offering real property for rent or lease it shall not be deemed a material fact that the real property was occupied previously by a person who died or had a serious illness while occupying the ~~property;~~ property or that a person convicted of any crime for which registration is required by Article 27A of Chapter 14 of the General Statutes

occupies, occupied, or resides near the property; provided, however, that no landlord or lessor may knowingly make a false statement regarding ~~such past occupancy.~~ any such fact."

(c) This section becomes effective December 1, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

USE OF FEDERAL PRISON CONSTRUCTION GRANT FUNDS

Section 17.18. Section 19.22 of S.L. 1997-443 reads as rewritten:

"Section 19.22. The Department of Correction shall use federal grant funds received from the U.S. Justice Department as part of the Violent Offender Incarceration Program and the Truth-In-Sentencing Incentive Grant Program and any State funds appropriated for the further planning and design and construction of the following State prison facilities, provided that the project meets the criteria of the federal grant program:

Facility	Location	Number of Beds	Custody
Central Prison Diagnostic Center	Wake	196	Close
Warren Correctional Institution	Warren	168	Med/Close
Improvements to NCCIW	Wake	208	Med/Close
Scotland Facility	Scotland	712	Close
Alexander Facility (or replacement site)	Alexander	520	Close
Metro Facility	Charlotte Area	520	Close

~~No more than the sum of seventeen million five hundred thousand dollars ($17,500,000) in federal funds may be allocated to the Central Prison Diagnostic Center Project, the proposed revised Phase I of the Central Prison Master Plan, or the planning and design of the Warren, NCCIW, or Metro projects until federal funds have been allocated to complete the working drawings phase of planning and design for the Alexander and Scotland Close Custody Prison Facilities.~~

If the Department of Correction identifies a replacement for the Alexander Facility, the Department of Correction shall report on the site selected to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee.

Prior to major redesign or expansion of plans for Scotland, Alexander, and Metro, the Department of Correction shall report to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee.

The Department of Correction shall not initiate further construction on any of the projects listed in this section other than the Central Prison Diagnostic Center, which is already under contract, or on the Central Prison Medical Center project until the Department reports to the Chairs of the Senate and House Appropriations Committees,

the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee on the proposed construction plans and the short-term and long-term costs of the projects.

The Department of Correction shall report ~~quarterly~~ by November 1, 1998, to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, ~~to the Joint Legislative Commission on Governmental Operations and~~ the Joint Legislative Corrections and Crime Control Oversight Committee on the allocation of any federal funds received and of anticipated future federal grant funds."

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Redwine, Smith

INCREASE PENALTY FOR DOMESTIC CRIMINAL TRESPASS IF THE TRESPASS IS COMMITTED UPON PROPERTY OPERATED AS A SAFE HOUSE FOR VICTIMS OF DOMESTIC VIOLENCE AND THE PERSON TRESPASSING IS ARMED WITH A DEADLY WEAPON

Section 17.19. (a) G.S. 14-134.3 reads as rewritten:

"**§ 14-134.3. Domestic criminal trespass.**

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

(1) A judicial order of separation;

(2) A court order directing the person charged to stay away from the premises occupied by the complainant;

(3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or

(4) Separate places of residence for the complainant and the person charged.

~~On~~ Except as provided in subsection (b) of this section, upon conviction, said person is guilty of a Class 1 misdemeanor.

(b) A person convicted of a violation of this section is guilty of a Class G felony if the person is trespassing upon property operated as a safe house or haven for victims of domestic violence and the person is armed with a deadly weapon at the time of the offense."

(b) This section becomes effective January 1, 1999, and applies to offenses committed on or after that date.

Requested by: Representatives Dockham, Justus, Kiser, Thompson, McCrary

REQUIRE INMATE ROAD SQUADS IN DAVIDSON COUNTY TO WEAR UNIFORMS IDENTIFYING THEM AS INMATES

Section 17.20. The Department of Correction and the Department of Transportation shall require all inmate road squads, maintenance road squads, and community work crews working in Davidson County to wear horizontally striped uniforms with stripes of three inches in width and color-coded by inmate classification in a manner consistent with the color-coding used by Davidson County for its road squads.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

CONVERT IMPACT TO RESIDENTIAL PROGRAM

Section 17.21. (a) G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Submit to a period of ~~confinement in a facility operated by the Department of Correction~~ residential treatment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT), pursuant to G.S. 15A-1343.1, for a minimum of 90 days or a maximum of 120 days ~~under special probation, reference G.S. 15A-1351(a) or G.S. 15A-1344(e),~~ and abide by all rules and regulations ~~as provided in conjunction with the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT), which provides an atmosphere for learning personal confidence, personal responsibility, self-respect, and respect for attitudes and value systems.~~ of that program. This condition may also include a period of supervision through the Post-Boot Camp Probation Program.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Repealed by Session Laws 1997-57, s. 3.

(3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully

and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(4) Surrender his driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his person and of his vehicle and premises while he is present, for purposes specified by the court and reasonably related to his probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3,

113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

(b) G.S. 15A-1343.1 reads as rewritten:

"**§ 15A-1343.1. Criteria for selection and sentencing to IMPACT.**

The Intensive Motivational Program of Alternative Correctional Treatment (IMPACT) shall be a residential program within the meaning of G.S. 15A-1340.11(8), operated by the Department of Correction. The criteria for selecting and sentencing offenders to the Intensive Motivational Program of Alternative Correctional Treatment as provided under G.S. 15A-1343(b1)(2a) shall be as follows:

(1) The offender must be between the ages of 16 and 30;

(2) The offender must be convicted of a Class 1 misdemeanor, Class A1 misdemeanor, or a felony;

(3) The offender must submit to a medical evaluation by a physician approved by his probation or parole officer and must be certified by the physician to be medically fit for program participation.

(4) Repealed by Session Laws 1995, c. 446, s. 1."

(c) G.S. 15A-1344(e) reads as rewritten:

"(e) Special Probation in Response to Violation. – When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences for impaired driving under ~~G.S. 20-138.1 and probationary sentences which include a period of imprisonment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a),~~ G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an

activated suspended sentence, may not exceed six months or one fourth the maximum sentence of imprisonment imposed for the offense, whichever is less. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. ~~For probationary sentences which include a period of imprisonment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed six months or one-half the maximum term of the suspended sentence of imprisonment, whichever is less.~~ No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first."

(b) G.S. 15A-1351(a) reads as rewritten:

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Department of Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in the custody of either the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under ~~G.S. 20-138.1 and probationary sentences which include a period of imprisonment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a),~~ G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed six months or one fourth the maximum sentence of imprisonment imposed for the offense, whichever is less, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-

fourth the maximum penalty allowed by law. ~~For probationary sentences which include a period of imprisonment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed six months or one-half of the maximum term of the suspended sentence, whichever is less.~~ In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

(c) This section becomes effective December 1, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Sexton

ABOLISH EXECUTION BY LETHAL GAS AND PROVIDE THAT A PERSON CONVICTED OF A CRIMINAL OFFENSE WHO IS SENTENCED TO DEATH SHALL BE EXECUTED BY THE ADMINISTRATION OF LETHAL DRUGS

Section 17.22. (a) G.S. 15-187 reads as rewritten:

"**§ 15-187. Death by administration of lethal ~~gas or~~ drugs.**

Death by electrocution under sentence of law ~~is hereby abolished~~ and death by the administration of lethal gas ~~substituted therefor, except that if any person sentenced to death so chooses, he may at least five days prior to his execution date, elect in writing to be executed by the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent.~~ under sentence of law are abolished. Any person convicted of a criminal offense and sentenced to death shall be executed only by the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent."

(b) G.S. 15-188 reads as rewritten:

"**§ 15-188. Manner and place of execution.**

~~Except as otherwise provided in~~ In accordance with G.S. 15-187, the mode of executing a death sentence must in every case be by ~~causing~~ administering to the convict or felon ~~to inhale lethal gas of sufficient quantity to cause death, and the administration of such lethal gas must be continued until such~~ a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent until the convict or felon is dead; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, ~~such~~ the punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this Article and approved by the Governor and Council of State, the necessary

~~appliances for the infliction of the punishment of death in accordance with the requirements of this Article.~~ appliances for the infliction of the punishment of death and qualified personnel to set up and prepare the injection, administer the preinjections, insert the IV catheter, and to perform other tasks required for this procedure in accordance with the requirements of this Article."

(c) This section is effective when it becomes law and applies to all executions after the effective date of this section.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

PROHIBIT ESCAPE FROM PRIVATE CORRECTIONAL FACILITIES/PROPOSED STANDARDS FOR PRIVATE PRISONS FOR OUT-OF-STATE INMATES/CLARIFY MORATORIUM ON PRIVATE PRISONS FOR OUT-OF-STATE INMATES

Section 17.23. (a) Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-256.1. Escape from private correctional facility.**

It is unlawful for any person convicted in a jurisdiction other than North Carolina but housed in a private correctional facility located in North Carolina to escape from that facility. Violation of this section is a Class H felony."

(b) Subsection (b) of Section 19.17 of S.L. 1997-443 reads as rewritten:

"(b) The Department of Correction, in cooperation with the Department of Justice, Department of Insurance, and Office of State Construction, shall establish proposed standards for any private correctional facilities in this State that are used to confine inmates from a jurisdiction other than ~~North Carolina or~~ North Carolina, a political subdivision of ~~North Carolina.~~ North Carolina, or the federal government. These standards shall include provisions for all such facilities to:

(1) Meet minimum responsibility and insurance standards and may provide for the posting of surety bonds;

(2) Meet or exceed all standards applicable to the State prison system, particularly those standards relating to inmate care and treatment;

(3) Provide for the transfer or return of all inmates to the jurisdiction in which the inmates were originally convicted prior to release of the inmates;

(4) Permit officials of the State of North Carolina to conduct periodic inspections of all such facilities; and

(5) Meet any other standards the departments deem advisable.

The Department of Correction shall report on these proposed standards to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by ~~May 1, 1998.~~ March 15, 1999. The report shall include a recommendation on the appropriate regulatory agency or agencies to enforce these ~~standards.~~ standards and on the necessary enforcement authority to be

vested in that agency or agencies. The report shall also include a draft of legislation necessary to enact the proposed standards and regulatory authority.

The Department of Correction shall also consult with the Department of Justice on the appropriateness of the penalty provided for in G.S. 14-256.1, enacted in subsection (a) of this section, and on the implications of convicting inmates already serving sentences imposed by other jurisdictions in private prisons located in North Carolina. The Department of Correction shall include the conclusions reached during its consultation with the Department of Justice in the report required by this section."

(c) Subsection (c) of Section 19.17 of S.L. 1997-443 reads as rewritten:

"(c) No municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates from any jurisdiction other than North ~~Carolina or~~ Carolina, a political subdivision of North ~~Carolina~~ Carolina, or the federal government until the Department of Correction has developed proposed standards for such private correctional facilities pursuant to subsection (b) of this section and the General Assembly has acted upon those standards. No private confinement facility authorized under G.S. 148-37(g) that receives payment from this State for the housing of State prisoners may contain inmates from any jurisdiction other than North Carolina or a political subdivision of North Carolina without the written consent of the Secretary of Correction."

(d) Subsection (a) of this section becomes effective January 1, 1999, and applies to offenses committed on or after that date.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Allred, Cole, Reynolds

ESTABLISH PILOT PROGRAMS IN ALAMANCE AND UNION COUNTIES TO DETERMINE THE COST-EFFECTIVENESS OF PLACING ALL INMATES ON WORK RELEASE

Section 17.25. (a) The Department of Correction shall establish a pilot program for determining the benefits of work-release prison units by placing all eligible inmates in the Alamance Correctional Center on work release to the extent possible. The Department shall report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 1999, on the cost-effectiveness of the program.

(b) The Department of Correction shall establish a pilot program for determining the benefits of work-release prison units by placing all eligible inmates in the Union Correctional Center, except those needed for Department of Transportation road squads, on work release to the extent possible. The Department shall report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 1999, on the cost-effectiveness of the program.

PART XVIII. DEPARTMENT OF JUSTICE

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Smith

SALARY EQUITY FOR SBI LAW ENFORCEMENT

Section 18. Subsection (a) of Section 20.9 of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated in this act to the Department of Justice for the State Bureau of Investigation, the sum of two million seven hundred thousand dollars ($2,700,000) for the 1997-98 fiscal year and the sum of ~~two million seven hundred thousand dollars ($2,700,000)~~ two million six hundred sixty-seven thousand five hundred forty dollars ($2,667,540) for the 1998-99 fiscal year shall be used to adjust the salaries of law enforcement positions in the State Bureau of Investigation. These adjustments shall be based on factors, such as employee salary, position class title, position grade, and credible years of sworn service with the State Bureau of Investigation. No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment. Sworn officers holding the following management positions are not eligible to receive the salary adjustment: SBI Director, SBI Assistant Directors of Support Services, SBI Assistant Director, SBI Assistant Directors of Field Services, SBI Assistant Director of Crime Laboratory, Deputy Director of Medicaid Fraud."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

LIMITS ON COMPUTER SYSTEM UPGRADE

Section 18.1. (a) Section 20.4 of S.L. 1997-443 reads as rewritten:

"Section 20.4. Any ~~proposed increase in mainframe computer capacity or~~ major new computer system or major computer system upgrade for the Judicial Department, the Department of Correction, the Department of Justice, or the Department of Crime Control and Public Safety, to be funded all or in part from the Continuation Budget, shall be reported to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees, and to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety before the department enters into any contractual agreement. A major computer system upgrade includes any proposed enhancement, modification, or capacity increase to the computing and telecommunications infrastructure or to program applications where the total cost is anticipated to exceed five hundred thousand dollars ($500,000). This report is to be made jointly by the Information Resource Management Commission, the Office of State Budget and Management, and the requesting department."

(b) This section is effective when this act becomes law.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

CRIMINAL JUSTICE INFORMATION NETWORK REPORT

Section 18.2. (a) The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by March 1, 1999, to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

(1) The operations of the Board, including the Board's progress in developing data-sharing standards in cooperation with State and local agencies and the estimated time of completion of the standards.

(2) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board.

(3) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point.

(b) G.S. 143-661(b) reads as rewritten:

"(b) The Board shall consist of ~~15~~ 19 members, appointed as follows:

(1) Three members appointed by the Governor, including one member who is 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 is 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 the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999.

(2) Six members appointed by the General Assembly in accordance with G.S. 120-121, as follows:

a. Three members recommended by the President Pro Tempore of the Senate, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina League of Municipalities who is a member of, or an employee working directly for, the governing board of a North Carolina municipality for a term to begin on September 1, 1996 and to expire on June 30, 1999; and

b. Three members recommended by the Speaker of the House of Representatives, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1999, and one member selected from the North Carolina

Association of County Commissioners who is a member of, or an employee working directly for, the governing board of a North Carolina county for a term to begin on September 1, 1996 and to expire on June 30, 1997.

(3) Two members appointed by the Attorney General, including one member who is an employee of the Attorney General for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member from the North Carolina Sheriffs' Association for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(4) ~~Two~~ Six members appointed by the Chief Justice of the North Carolina Supreme ~~Court, including the Director or an employee of the Administrative Office of the Courts for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member who is either a clerk of the superior court or a district attorney, or employee of a district attorney, for a term to begin on September 1, 1996 and to expire on June 30, 1999.~~ Court, as follows:

a. The Director of the Administrative Office of the Courts, or an employee of the Administrative Office of the Courts, for a term beginning July 1, 1997, and expiring June 30, 2001.

b. One member who is a district attorney or an assistant district attorney upon the recommendation of the Conference of District Attorneys of North Carolina, for a term beginning July 1, 1998, and expiring June 30, 1999.

c. Two members who are superior court or district court judges for terms beginning July 1, 1998, and expiring June 30, 2001.

d. One member who is a magistrate upon the recommendation of the North Carolina Magistrates' Association, for a term beginning July 1, 1998, and expiring June 30, 1999.

e. One member who is a clerk of superior court upon the recommendation of the North Carolina Association of Clerks of Superior Court, for a term beginning July 1, 1998, and expiring June 30, 1999.

(5) One member appointed by the Chair of the Information Resource Management Commission, who is the Chair or a member of that Commission, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(6) One member appointed by the President of the North Carolina Chapter of the Association of Public Communications Officials International, who is an active member of the Association, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

The respective appointing authorities are encouraged to appoint persons having a background in and familiarity with criminal information systems and networks generally and with the criminal information needs and capacities of the constituency from which the member is appointed.

As the initial terms expire, subsequent members of the Board shall be appointed to serve four-year terms. At the end of a term, a member shall continue to serve on the Board until a successor is appointed. A member who is appointed after a term is begun serves only for the remainder of the term and until a successor is appointed. Any vacancy in the membership of the Board shall be filled by the same appointing authority that made the appointment, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122."

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

Section 18.3. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the 1995-96 fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on or before March 1, 1999.

Requested by: Senators Plyler, Odom, Representatives Justus, Kiser, Thompson, Sexton

STUDY RECIPROCITY OF CONCEALED HANDGUN PERMITS

Section 18.4. (a) The Joint Legislative Corrections and Crime Control Oversight Committee shall study the issue of providing that a nonresident who has been issued a valid handgun permit in a reciprocal state may carry a concealed handgun in accordance with Article 54B of Chapter 14 of the General Statutes as if the permit were issued by this State. The Committee shall report its findings and recommendations to the 1999 General Assembly.

(b) The Attorney General shall prepare a list of those states that provide for concealed handgun permits that are equal to or more stringent than those required by North Carolina in order to assist the Joint Legislative Corrections and Crime Control Oversight Committee in its study.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT AND TO EXPAND THE NUISANCE ABATEMENT TEAM

Section 18.5. (a) Assets transferred to the Department of Justice during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the

Department. Assets transferred to the Department of Crime Control and Public Safety during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. The Departments of Justice and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended, except during the 1998-99 fiscal year, the Department of Justice may:

(1) Use an amount not to exceed the sum of twenty-five thousand dollars ($25,000) of the funds to extend the lease of space in the Town of Salemburg for SBI training; and

(2) Use an amount not to exceed the sum of fifty thousand dollars ($50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle.

(b) The General Assembly finds that the use of assets transferred pursuant to 19 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly, except during the 1998-99 fiscal year, the Department of Crime Control and Public Safety may use an amount not to exceed the sum of fifty-seven thousand nine hundred fifty-nine dollars ($57,959) of forfeiture funds to provide the required twenty-five percent (25%) match for a grant awarded by the Governor's Crime Commission to expand the Nuisance Abatement Team of the Division of Alcohol Law Enforcement. Any positions created with the grant funds shall terminate at the end of the grant period.

(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton, Holmes, Esposito, Creech, Crawford

SBI USE OF COURT-ORDERED REIMBURSEMENT FUNDS

Section 18.6. Section 20.2 of S.L. 1997-443 reads as rewritten:

"Section 20.2. The State Bureau of Investigation (SBI) may use funds available from court-ordered reimbursement in undercover drug operations. <u>Any funds received from the court may be budgeted upon receipt from the court and may be used in addition to any funds appropriated by the General Assembly.</u>"

Requested by: Representative Creech

ESTABLISH PUBLIC SETTLEMENT RESERVE FUND/ATTORNEY GENERAL REPORT OF STATE SETTLEMENTS AND COURT ORDERS

Section 18.7. (a) Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-16.5. Public Settlement Reserve Fund.**

The 'Public Settlement Reserve Fund' is established as a restricted reserve in the General Fund. Except if prohibited by order of the court and except as provided in G.S. 143-16.4, funds in excess of seventy-five thousand dollars ($75,000) paid to the State or a State agency pursuant to a settlement agreement or final order or judgment of the court shall be deposited to the Public Settlement Reserve Fund. Funds shall be expended from the Public Settlement Reserve Fund only by appropriation by the General Assembly."

(b) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-2.5. Attorney General to report payment of public monies pursuant to settlement agreements and final court orders.**

(a) The Attorney General shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives on the payments received pursuant to a settlement agreement or final order or judgment of the court and deposited to the Public Settlement Reserve Fund in accordance with G.S. 143-16.5. The Attorney General shall also report on the terms or conditions of payment set forth in the agreement or order. The Attorney General shall submit a written report to the Fiscal Research Division of the General Assembly.

(b) This section only applies to executed settlement agreements and final orders or judgments of the court and shall in no way affect the authority of the Attorney General to negotiate the settlement of cases in which the State or a State department, agency, institution, or officer is a party."

(c) This section applies to settlement agreements or final orders or judgements of the court entered into on or after November 15, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

SBI FUNDS/SPENDING PRIORITIES

Section 18.8. Section 20.1 of S.L. 1997-443 reads as rewritten:

"Section 20.1. Of the funds appropriated in this act to the Department of Justice, State Bureau of Investigation, for the 1997-99 biennium for overtime payments, the first priority for use of the funds by the Department shall be:

(1) To make overtime payments to SBI agents in the Field Investigations ~~Division; and~~ Division and in the crime laboratories; and

(2) To make overtime payments to supervisory personnel receiving overtime payments as of June 30, 1997, up to a maximum of five thousand two hundred dollars ($5,200) annually per individual."

PART XIX. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson, Esposito, Sexton

ACTIVATION OF NATIONAL GUARD FOR SPECIAL OLYMPICS

Section 19. With funds available, the Governor may place units or portions of units of the North Carolina National Guard on State Active Duty during the period from January 1, 1999, to September 30, 1999, to assist with the planning, support, and execution of events associated with the International Special Olympic Games.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

STUDY TARHEEL CHALLENGE PROGRAM

Section 19.1. With funds available, the Department of Crime Control and Public Safety shall use up to twenty-five thousand dollars ($25,000) for the 1998-99 fiscal year to contract with an external consultant to study the effectiveness of the National Guard Tarheel Challenge Program as an intervention method for preventing delinquent or criminal behavior and improving individual skills and employment potential of the participants in the Program. The consultant selected shall have substantial professional experience in program evaluation, but shall have no current or prior association, direct or indirect, with the Department of Crime Control and Public Safety, the National Guard Tarheel Challenge Program, or the staff of either. The study shall include:

(1) An evaluation of the goals of the Program and long-term effects of participation in the Program;

(2) A comparison of the Program to (i) other similar programs that offer job training and behavior modification and (ii) a control group of students not participating in intervention programs; and

(3) A cost-benefit analysis of the Program.

The Department shall report the results of the study, including any recommendations, to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by April 1, 1999.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson

VICTIMS ASSISTANCE NETWORK REPORT

Section 19.2. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated in Section 21.1 of S.L. 1997-443 for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1, 1998.

Requested by: Senator Plyler, Representatives Justus, Kiser, Thompson, Sexton

HIGHWAY PATROL SALARIES

Section 19.3. There is appropriated from the Highway Fund to the Reserve for Compensation Increases the sum of one hundred sixty-two thousand nine hundred fifty-six dollars ($162,956) for the 1998-99 fiscal year to implement a salary range revision for the State Highway Patrol that makes the difference between the salary of a first sergeant and a lieutenant ten percent (10%) instead of five percent (5%). In implementing this range revision, the State Highway Patrol shall, to the extent that funds are available to do so, consider individual salary increases in any amount up to a total amount that does not exceed the difference between the maximum salaries of the old range and the new range.

Requested by: Senators Cooper, Wellons, Plyler, Perdue, Odom, Gulley, Lucas, Representatives Daughtry, Holmes, Esposito, Creech, Crawford, Eddins

CREATE THE CRIME VICTIMS' RIGHTS ACT/ASSIST VICTIMS OF DOMESTIC VIOLENCE/ALLOW THE ENFORCEMENT OF ORDERS FOR RESTITUTION IN CRIMINAL CASES IN THE SAME MANNER AS CIVIL JUDGMENTS/CREATE AN EXCEPTION TO THE STATUTORY EXEMPTIONS FOR EXECUTION OF RESTITUTION JUDGMENTS/CHANGE THE ORDER OF PRIORITY FOR DISBURSEMENT OF FUNDS IN CRIMINAL CASES/MAKE CHANGES TO THE CRIME VICTIMS COMPENSATION ACT/ELIMINATE THE REVIEW OF SENTENCES OF LIFE IMPRISONMENT WITHOUT PAROLE

Section 19.4. (a) The title to Article 45 of Subchapter VIII of Chapter 15A of the General Statutes reads as rewritten:

"SUBCHAPTER VIII-A. RIGHTS OF CRIME VICTIMS AND WITNESSES.

"ARTICLE 45.

"Fair Treatment for Certain Victims and Witnesses."

(b) G.S. 15A-824 reads as rewritten:

"**§ 15A-824. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

(1) 'Crime' means a felony or serious misdemeanor as determined in the sole discretion of the district attorney, ~~any felony,~~ except those included in Article 45A of this Chapter, or any act committed by a juvenile that, if committed by a competent adult, would constitute a ~~felony.~~ felony or serious misdemeanor.

(2) 'Family member' means a spouse, child, parent or legal guardian, or the closest living relative.

(3) 'Victim' means a person against whom there is probable cause to believe a crime has been committed.

(4) 'Witness' means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action concerning a felony, or who by reason of having relevant information is subject to being

called or is likely to be called as a witness for the prosecution in such an action, whether or not an action or proceeding has been commenced."

(c) Subchapter VIII-A of Chapter 15A of the General Statutes, as enacted in subsection (a) of this section, is amended by adding a new Article to read:

"ARTICLE 45A.

"Crime Victims' Rights Act.

"**§ 15A-830. Definitions.**

(a) The following definitions apply in this Article:

(1) Accused. – A person who has been arrested and charged with committing a crime covered by this Article.

(2) Arresting law enforcement agency. – The law enforcement agency that makes the arrest of an accused.

(3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, or the Department of Correction.

(4) Investigating law enforcement agency. – The law enforcement agency with primary responsibility for investigating the crime committed against the victim.

(5) Law enforcement agency. – An arresting law enforcement agency, a custodial agency, or an investigating law enforcement agency.

(6) Next of kin. – The victim's spouse, children, parents, siblings, or grandparents. The term does not include the accused unless the charges are dismissed or the person is found not guilty.

(7) Victim. – A person against whom there is probable cause to believe one of the following crimes was committed:

a. A Class A, B1, B2, C, D, or E felony.

b. A Class F felony if it is a violation of one of the following: G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3); 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.2; 14-43.3; 14-190.17; 14-190.19; 14-202.1; 14-288.9; or 20-138.5.

c. A Class G felony if it is a violation of one of the following: G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.

d. A Class H felony if it is a violation of one of the following: G.S. 14-32.3(a); 14-32.3(c); or 14-33.2.

e. A Class I felony if it is a violation of one of the following: G.S. 14-277.3; 14-32.3(b); 14-34.6(b); or 14-190.17A.

f. An attempt of any of the felonies listed in this subdivision if the attempted felony is punishable as a felony.

g. Any of the following misdemeanor offenses when the offense is committed between persons who have a personal relationship as

defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a); 14-34; 14-134.3; or 14-277.3.

(b) If the victim is deceased, then the next of kin, in the order set forth in the definition contained in this section, is entitled to the victim's rights under this Article. However, the right contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's estate. An individual entitled to exercise the victim's rights as a member of the class of next of kin may designate anyone in the class to act on behalf of the class.

"**§ 15A-831. Responsibilities of law enforcement agency.**

(a) As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with the following information:

(1) The availability of medical services, if needed.

(2) The availability of crime victims' compensation funds under Chapter 15B of the General Statutes and the address and telephone number of the agency responsible for dispensing the funds.

(3) The address and telephone number of the district attorney's office that will be responsible for prosecuting the victim's case.

(4) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency.

(5) Information about an accused's opportunity for pretrial release.

(6) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact to find out whether the accused has been released from custody.

(b) As soon as practicable but within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting law enforcement agency shall inform the investigating law enforcement agency of the arrest. As soon as practicable but within 72 hours of being notified of the arrest, the investigating law enforcement agency shall notify the victim of the arrest.

(c) As soon as practicable but within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall forward to the district attorney's office that will be responsible for prosecuting the case the victim's name, address, date of birth, social security number, race, sex, and telephone number, unless the victim refuses to disclose any or all of the information, in which case, the investigating law enforcement agency shall so inform the district attorney's office.

(d) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the investigating law enforcement agency, indicate whether the victim wishes to receive any further notices from the investigating law enforcement agency. If the victim elects to receive further notices, the victim shall be responsible for notifying the investigating law enforcement agency of any changes in the victim's name, address, and telephone number.

"**§ 15A-832. Responsibilities of the district attorney's office.**

(a) Within 21 days after the arrest of the accused, but not less than 24 hours before the accused's first scheduled probable-cause hearing, the district attorney's office shall provide to the victim a pamphlet or other written material that explains in a clear and concise manner the following:

(1) The victim's rights under this Article, including the right to confer with the attorney prosecuting the case about the disposition of the case and the right to provide a victim impact statement.

(2) The responsibilities of the district attorney's office under this Article.

(3) The victim's eligibility for compensation under the Crime Victims Compensation Act and the deadlines by which the victim must file a claim for compensation.

(4) The steps generally taken by the district attorney's office when prosecuting a felony case.

(5) Suggestions on what the victim should do if threatened or intimidated by the accused or someone acting on the accused's behalf.

(6) The name and telephone number of a victim and witness assistant in the district attorney's office whom the victim may contact for further information.

(b) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the district attorney's office, indicate whether the victim wishes to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused. If the victim elects to receive notices, the victim shall be responsible for notifying the district attorney's office or any other department or agency that has a responsibility under this Article of any changes in the victim's address and telephone number. The victim may alter the request for notification at any time by notifying the district attorney's office and completing the form provided by the district attorney's office.

(c) The district attorney's office shall notify a victim of the date, time, and place of all trial court proceedings of the type which the victim has elected to receive notice. All notices required to be given by the district attorney's office shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the court proceeding.

(d) Whenever practical, the district attorney's office shall provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family.

(e) When the victim is to be called as a witness in a court proceeding, the court shall make every effort to permit the fullest attendance possible by the victim in the proceedings. This subsection shall not be construed to interfere with the defendant's right to a fair trial.

(f) Prior to the disposition of the case, the district attorney's office shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the case, including the victim's views about dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.

(g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy of a form containing the identifying information set forth in G.S. 15A-831(c) about any victim's electing to receive further notices under this Article. The form shall be included with the final judgment and commitment transmitted to the Department of Correction or other agency receiving custody of the defendant and shall be maintained by the custodial agency as a confidential file.

"**§ 15A-833. Evidence of victim impact.**

(a) A victim has the right to offer admissible evidence of the impact of the crime, which shall be considered by the court or jury in sentencing the defendant. The evidence may include the following:

(1) A description of the nature and extent of any physical, psychological, or emotional injury suffered by the victim as a result of the offense committed by the defendant.

(2) An explanation of any economic or property loss suffered by the victim as a result of the offense committed by the defendant.

(3) A request for restitution and an indication of whether the victim has applied for or received compensation under the Crime Victims Compensation Act.

(b) No victim shall be required to offer evidence of the impact of the crime. No inference or conclusion shall be drawn from a victim's decision not to offer evidence of the impact of the crime.

"**§ 15A-834. Restitution.**

A victim has the right to receive restitution as ordered by the court pursuant to Article 81C of Chapter 15A of the General Statutes.

"**§ 15A-835. Posttrial responsibilities.**

(a) Within 30 days after the final trial court proceeding in the case, the district attorney's office shall notify the victim, in writing, of:

(1) The final disposition of the case.

(2) The crimes of which the defendant was convicted.

(3) The defendant's right to appeal, if any.

(b) Upon a defendant's giving notice of appeal to the Court of Appeals or the Supreme Court, the district attorney's office shall forward to the Attorney General's office the victim's name, address, and telephone number. Upon receipt of this information, and thereafter as the circumstances require, the Attorney General's office shall provide the victim with the following:

(1) A clear and concise explanation of how the appellate process works, including information about possible actions that may be taken by the appellate court.

(2) Notice of the date, time, and place of any appellate proceedings involving the defendant. Notice shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the proceedings.

(3) The final disposition of an appeal.

(c) If the defendant has been released on bail pending the outcome of the appeal, the agency that has custody of the defendant shall notify the investigating law enforcement agency as soon as practicable, and within 72 hours of receipt of the notification the investigating law enforcement agency shall notify the victim that the defendant has been released.

(d) If the defendant's conviction is overturned, and the district attorney's office decides to retry the case or the case is remanded to superior court for a new trial, the victim shall be entitled to the same rights under this Article as if the first trial did not take place.

(e) The Conference of District Attorneys shall maintain a repository relating to victims' identities, addresses, and other appropriate information for use by agencies charged with responsibilities under this Article.

"**§ 15A-836. Responsibilities of agency with custody of defendant.**

(a) When a form is included with the final judgment and commitment pursuant to G.S. 15A-832(g), or when the victim has otherwise filed a written request for notification with the custodial agency, the custodial agency shall notify the victim of:

(1) The projected date by which the defendant can be released from custody. The calculation of the release date shall be as exact as possible, including earned time and disciplinary credits if the sentence of imprisonment exceeds 90 days.

(2) An inmate's assignment to a minimum custody unit and the address of the unit. This notification shall include notice that the inmate's minimum custody status may lead to the inmate's participation in one or more community-based programs such as work release or supervised leaves in the community.

(3) The victim's right to submit any concerns to the agency with custody and the procedure for submitting such concerns.

(4) The defendant's escape from custody, within 72 hours.

(5) The defendant's capture, within 72 hours.

(6) The date the defendant is scheduled to be released from the facility. Whenever practical, notice shall be given 60 days before release. In no event shall notice be given less than seven days before release.

(7) The defendant's death.

(b) Notifications required in this section shall be provided within 30 days of the date the custodial agency takes custody of the defendant or within 30 days of the event requiring notification, or as otherwise specified in subsection (a) of this section.

"**§ 15A-837. Responsibilities of Division of Adult Probation and Parole.**

(a) The Division of Adult Probation and Parole shall notify the victim of:

(1) The defendant's regular conditions of probation or post-release supervision, special or added conditions, supervision requirements, and any subsequent changes.

(2) The date of a hearing to determine whether the defendant's supervision should be revoked, continued, modified, or terminated.

(3) The final disposition of any hearing referred to in subdivision (2) of this section.
(4) Any restitution modification.
(5) The defendant's movement into or out of any intermediate sanction as defined in G.S. 15A-1340.11(6).
(6) The defendant's absconding supervision, within 72 hours.
(7) The capture of a defendant described in subdivision (6) of this section, within 72 hours.
(8) The date when the defendant is terminated or discharged.
(9) The defendant's death.

(b) Notifications required in this section shall be provided within 30 days of the event requiring notification, or as otherwise specified in subsection (a) of this section.

"**§ 15A-838. Notice of commuted sentence or pardon.**

The Governor's Clemency Office shall notify a victim when it is considering commuting the defendant's sentence or pardoning the defendant. The Governor's Clemency Office shall also give notice that the victim has the right to present a written statement to be considered by the Office before the defendant's sentence is commuted or the defendant is pardoned. The Governor's Clemency Office shall notify the victim of its decision. Notice shall be given in a manner that is reasonably calculated to allow for a timely response to the commutation or pardon decision.

"**§ 15A-839. No money damages.**

This Article does not create a claim for damages against the State, a county, or a municipality, or any of its agencies, instrumentalities, officers, or employees.

"**§ 15A-840. No ground for relief.**

The failure or inability of any person to provide a right or service under this Article may not be used by a defendant in a criminal case, by an inmate, by any other accused, or by any victim, as a ground for relief in any criminal or civil proceeding, except in suits for a writ of mandamus by the victim.

"**§ 15A-841. Incompetent victim's rights exercised.**

When a victim is mentally or physically incompetent or when the victim is a minor, the victim's rights under this Article, other than the rights provided by G.S. 15A-834, may be exercised by the victim's next of kin or legal guardian."

(d) Chapter 15A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 81C.
"Restitution.

"**§ 15A-1340.24. Restitution generally.**

(a) When sentencing a defendant convicted of a criminal offense, the court shall determine whether the defendant shall be ordered to make restitution to any victim of the offense in question. For purposes of this Article, the term 'victim' means a person directly and proximately harmed as a result of the defendant's commission of the criminal offense.

(b) If the defendant is being sentenced for an offense for which the victim is entitled to restitution under Article 45A of this Chapter, the court shall, in addition to

any penalty authorized by law, require that the defendant make restitution to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant. If the defendant is placed on probation or post-release supervision, any restitution ordered under this subsection shall be a condition of probation as provided in G.S. 15A-1343(d) or a condition of post-release supervision as provided in G.S. 148-57.1.

(c) When subsection (b) of this section does not apply, the court may, in addition to any other penalty authorized by law, require that the defendant make restitution to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant.

"**§ 15A-1340.25. Basis for restitution.**

(a) In determining the amount of restitution, the court shall consider the following:

(1) In the case of an offense resulting in bodily injury to a victim:

a. The cost of necessary medical and related professional services and devices or equipment relating to physical, psychiatric, and psychological care required by the victim;

b. The cost of necessary physical and occupational therapy and rehabilitation required by the victim; and

c. Income lost by the victim as a result of the offense.

(2) In the case of an offense resulting in the damage, loss, or destruction of property of a victim of the offense:

a. Return of the property to the owner of the property or someone designated by the owner; or

b. If return of the property under sub-subdivision (2)a. of this subsection is impossible, impracticable, or inadequate:

1. The value of the property on the date of the damage, loss, or destruction; or

2. The value of the property on the date of sentencing, less the value of any part of the property that is returned.

(3) Any measure of restitution specifically provided by law for the offense committed by the defendant.

(4) In the case of an offense resulting in bodily injury that results in the death of the victim, the cost of the victim's necessary funeral and related services, in addition to the items set out in subdivisions (1),(2), and (3) of this subsection.

(b) The court may require that the victim or the victim's estate provide admissible evidence that documents the costs claimed by the victim or the victim's estate under this section. Any such documentation shall be shared with the defendant before the sentencing hearing.

"**§ 15A-1340.26. Determination of restitution.**

(a) In determining the amount of restitution to be made, the court shall take into consideration the resources of the defendant including all real and personal property owned by the defendant and the income derived from the property, the defendant's

ability to earn, the defendant's obligation to support dependents, and any other matters that pertain to the defendant's ability to make restitution, but the court is not required to make findings of fact or conclusions of law on these matters. The amount of restitution must be limited to that supported by the record, and the court may order partial restitution when it appears that the damage or loss caused by the offense is greater than that which the defendant is able to pay. If the court orders partial restitution, the court shall state on the record the reasons for such an order.

(b) The court may require the defendant to make full restitution no later than a certain date or, if the circumstances warrant, may allow the defendant to make restitution in installments over a specified time period.

(c) When an active sentence is imposed, the court shall consider whether it should recommend to the Secretary of Correction that restitution be made by the defendant out of any earnings gained by the defendant if the defendant is granted work-release privileges, as provided in G.S. 148-33.2. The court shall also consider whether it should recommend to the Post-Release Supervision and Parole Commission that restitution by the defendant be made a condition of any parole or post-release supervision granted the defendant, as provided in G.S. 148-57.1.

"**§ 15A-1340.27. Effect of restitution order; beneficiaries.**

(a) An order providing for restitution does not abridge the right of a victim or the victim's estate to bring a civil action against the defendant for damages arising out of the offense committed by the defendant. Any amount paid by the defendant under the terms of a restitution order under this Article shall be credited against any judgment rendered against the defendant in favor of the same victim in a civil action arising out of the criminal offense committed by the defendant.

(b) The court may order the defendant to make restitution to a person other than the victim, or to any organization, corporation, or association, including the Crime Victims Compensation Fund, that provided assistance to the victim following the commission of the offense by the defendant and is subrogated to the rights of the victim. Restitution shall be made to the victim or the victim's estate before it is made to any other person, organization, corporation, or association under this subsection.

(c) No government agency shall benefit by way of restitution except for particular damage or loss to it over and above its normal operating costs and except that the State may receive restitution for the total amount of a judgment authorized by G.S. 7A-455(b).

(d) No third party shall benefit by way of restitution as a result of the liability of that third party to pay indemnity to an aggrieved party for the damage or loss caused by the defendant, but the liability of a third party to pay indemnity to an aggrieved party or any payment of indemnity actually made by a third party to an aggrieved party does not prohibit or limit in any way the power of the court to require the defendant to make complete and full restitution to the aggrieved party for the total amount of the damage or loss caused by the defendant.

"**§ 15A-1340.28. Enforcement of certain orders for restitution.**

(a) In addition to the provisions of G.S. 15A-1340.26, when an order for restitution under G.S. 15A-1340.24(b) requires the defendant to pay restitution in an

amount in excess of two hundred fifty dollars ($250.00) to a victim, the order may be enforced in the same manner as a civil judgment, subject to the provisions of this section.

(b) The order for restitution under G.S. 15A-1340.24(b) shall be docketed and indexed in the county of the original conviction in the same manner as a civil judgment pursuant to G.S. 1-233, et seq., and may be docketed in any other county pursuant to G.S. 1-234. The judgment may be collected in the same manner as a civil judgment unless the order to pay restitution is a condition of probation. If the order to pay restitution is a condition of probation, the judgment may only be executed upon in accordance with subsection (c) of this section.

(c) If the defendant is ordered to pay restitution under G.S. 15A-1340.24(b) as a condition of probation, a judgment docketed under this section may be collected in the same manner as a civil judgment. However, the docketed judgment for restitution may not be executed upon the property of the defendant until the date of notification to the clerk of superior court in the county of the original conviction that the judge presiding at the probation termination or revocation hearing has made a finding that restitution in a sum certain remains due and payable, that the defendant's probation has been terminated or revoked, and that the remaining balance of restitution owing may be collected by execution on the judgment. The clerk shall then enter upon the judgment docket the amount that remains due and payable on the judgment, together with amounts equal to the standard fees for docketing, copying, certifying, and mailing, as appropriate, and shall collect any other fees or charges incurred as in the enforcement of other civil judgments, including accrued interest. However, no interest shall accrue on the judgment until the entry of an order terminating or revoking probation and finding the amount remaining due and payable, at which time interest shall begin to accrue at the legal rate pursuant to G.S. 24-5. The interest shall be applicable to the amount determined at the termination or revocation hearing to be then due and payable. The clerk shall notify the victim by first-class mail at the victim's last known address that the judgment may be executed upon, together with the amount of the judgment. Until the clerk receives notification of termination or revocation of probation and the amount that remains due and payable on the order of restitution, the clerk shall not be required to update the judgment docket to reflect partial payments on the order of restitution as a condition of probation. The stay of execution under this subsection shall not apply to property of the defendant after the transfer or conveyance of the property to another person. When the criminal order of restitution has been paid in full, the civil judgment indexed under this section shall be deemed satisfied and the judgment shall be cancelled. Payment satisfying the civil judgment shall also be credited against the order of restitution.

(d) An appeal of the conviction upon which the order of restitution is based shall stay execution on the judgment until the appeal is completed. If the conviction is overturned, the judgment shall be cancelled."

(e) G. S. 15A-1021(d) reads as rewritten:

"(d) When restitution or reparation by the defendant is a part of the plea arrangement agreement, if the judge concurs in the proposed disposition he may order

that restitution or reparation be made as a condition of special probation pursuant to the provisions of G.S. 15A-1351, or probation pursuant to the provisions of G.S. 15A-1343(d). If an active sentence is imposed the court may recommend that the defendant make restitution or reparation out of any earnings gained by the defendant if he is granted work release privileges under the provisions of G.S. 148-33.1, or that restitution or reparation be imposed as a condition of parole in accordance with the provisions of G.S. 148-57.1. The order or recommendation providing for restitution or reparation shall be in accordance with the applicable provisions of ~~G.S. 15A-1343(d).~~ G.S. 15A-1343(d) and Article 81C of this Chapter.

If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and the plea agreement may include a provision that the defendant will be ordered to pay for such treatment.

When restitution or reparation is recommended as part of a plea arrangement that results in an active sentence, the sentencing court shall enter as a part of the commitment that restitution or reparation is recommended as part of the plea arrangement. The Administrative Office of the Courts shall prepare and distribute forms which provide for ample space to make restitution or reparation recommendations incident to commitments."

(f) G.S. 15A-1343(d) reads as rewritten:

"(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the ~~resources of the defendant, including all real and personal property owned by the defendant and the income derived from such property, his ability to earn, his obligation to support dependents, and such other matters as shall pertain to his ability to make restitution or reparation, but the court is not required to make findings of fact or conclusions of law on these matters when the sentence is imposed. The amount must be limited to that supported by the record, and the court may order partial restitution or reparation when it appears that the damage or loss caused by the offense or offenses is greater than that which the defendant is able to pay. An order providing for restitution or reparation shall in no way abridge the right of any aggrieved party to bring a civil action against the defendant for money damages arising out of the offense or offenses committed by the defendant, but any amount paid by the defendant under the terms of an order as provided herein shall be credited against any judgment rendered against the defendant in such civil action. As used herein, "restitution"shall mean (i) compensation for damage or loss as could ordinarily be recovered by an aggrieved party in a civil action, and (ii) reimbursement to the State for the total amount of a judgment authorized by G.S. 7A-455(b).~~ factors set out in G.S. 15A-1340.25 and G.S. 15A-1340.26. As used herein, 'reparation' shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein 'aggrieved party' includes individuals, firms, corporations,

associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. ~~Provided, that no government agency shall benefit by way of restitution except for particular damage or loss to it over and above its normal operating costs and except that the State may receive restitution for the total amount of a judgment authorized by G.S. 7A-455(b).~~ A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done. ~~Provided further, that no third party shall benefit by way of restitution or reparation as a result of the liability of that third party to pay indemnity to an aggrieved party for the damage or loss caused by the defendant, but the liability of a third party to pay indemnity to an aggrieved party or any payment of indemnity actually made by a third party to an aggrieved party does not prohibit or limit in any way the power of the court to require the defendant to make complete and full restitution or reparation to the aggrieved party for the total amount of the damage or loss caused by the defendant. Restitution or reparation measures are ancillary remedies to promote rehabilitation of criminal offenders, to provide for compensation to victims of crime, and to reimburse the Crime Victims Compensation Fund established by G.S. 15B-23, and shall not be construed to be a fine or other punishment as provided for in the Constitution and laws of this State.~~"

(g) G.S. 148-33.2(c) reads as rewritten:

"(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Secretary of Correction that restitution or reparation be made by the defendant out of any earnings gained by the defendant if he is granted work-release privileges and out of other resources of the defendant, including all real and personal property owned by the defendant, and income derived from such property. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The recommendation shall be in accordance with the applicable provisions of ~~G.S. 15A-1343(d).~~ G.S. 15A-1343(d) and Article 81C of Chapter 15A of the General Statutes. If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order the defendant to pay from work release earnings the cost of rehabilitative treatment for the minor. The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation."

(h) G.S. 148-57.1(c) reads as rewritten:

"(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Post-Release Supervision and Parole Commission that restitution or reparation by the defendant be made a condition of any parole or post-release supervision granted the defendant. If the court determines that

restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The recommendation shall be in accordance with the applicable provisions of ~~G.S. 15A-1343(d).~~ Article 81C of Chapter 15A of the General Statutes. The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation.

If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order, as a condition of parole or post-release supervision, that the defendant pay the cost of any rehabilitative treatment for the minor."

(i) G.S. 1-234 reads as rewritten:

"**§ 1-234. Where and how docketed; lien.**

Upon filing a judgment roll upon a judgment affecting the title of real property, or directing in whole or in part the payment of money, it shall be docketed on the judgment docket of the court of the county where the judgment roll was filed, and may be docketed on the judgment of the court of any other county upon the filing with the clerk thereof of a transcript of the original docket, and is a lien on the real property in the county where the same is docketed of every person against whom any such judgment is rendered, and which he has at the time of the docketing thereof in the county in which such real property is situated, or which he acquires at any time thereafter, for 10 years from the date of the rendition of the judgment. But the time during which the party recovering or owning such judgment shall be, or shall have been, restrained from proceeding thereon by an order of injunction, or other order, or by the operation of any appeal, or by a statutory prohibition, does not constitute any part of the 10 years aforesaid, as against the defendant in such judgment, or the party obtaining such orders or making such appeal, or any other person who is not a purchaser, creditor or mortgagee in good faith.

A judgment docketed pursuant to G.S. 15A-1340.28 shall constitute a lien against the property of a defendant as provided for under this section."

(j) G.S. 1C-1601(e) reads as rewritten:

"(e) Exceptions. – The exemptions provided in this Article are inapplicable to claims

(1) Of the United States or its agencies as provided by federal law;
(2) Of the State or its subdivisions for taxes, appearance bonds or fiduciary bonds;
(3) Of lien by a laborer for work done and performed for the person claiming the exemption, but only as to the specific property affected;
(4) Of lien by a mechanic for work done on the premises, but only as to the specific property affected;
(5) For payment of obligations contracted for the purchase of the specific real property affected;
(6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1224, s. 6;

(7) For contractual security interests in the specific property affected; provided, that the exemptions shall apply to the debtor's household goods notwithstanding any contract for a nonpossessory, nonpurchase money security interest in any such goods;

(8) For statutory liens, on the specific property affected, other than judicial liens;

(9) For child support, alimony or distributive award order pursuant to Chapter 50 of the General ~~Statutes.~~ Statutes;

(10) For criminal restitution orders docketed as civil judgments pursuant to G.S. 15A-1340.28."

(k) G.S. 7A-304(d) reads as rewritten:

"(d) In any criminal case in which the liability for costs, fines, restitution, or any other lawful charge has been finally determined, the clerk of superior court shall, unless otherwise ordered by the presiding judge, disburse such funds when paid in accordance with the following priorities:

(1) Sums in restitution to the victim entitled thereto;

~~(1)~~(2) Costs due the county;

~~(2)~~(3) Costs due the city;

~~(3)~~(4) Fines to the county school fund;

~~(4)~~(5) Sums in restitution prorated among the persons other than the victim entitled thereto;

~~(5)~~(6) Costs due the State;

~~(6)~~(7) Attorney's fees.

Sums in restitution received by the clerk of superior court shall be disbursed when:

(1) Complete restitution has been received; or

(2) When, in the opinion of the clerk, additional payments in restitution will not be collected; or

(3) Upon the request of the person or persons entitled thereto; and

(4) In any event, at least once each calendar year."

(l) G.S. 15B-2 reads as rewritten:

"**§ 15B-2. Definitions.**

As used in this Chapter, unless the context requires otherwise:

(1) 'Allowable expense' means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, medically related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of three thousand five hundred dollars ($3,500) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

(2) 'Claimant' means any of the following persons who claims an award of compensation under this Chapter:

a. A victim;

b. A dependent of a deceased victim;

c. A third person who is not a collateral source and who provided benefit to the victim or his family other than in the course or scope of his employment, business, or profession;

d. A person who is authorized to act on behalf of a victim, a dependent, or a third person described in subdivision c.

The claimant, however, may not be the offender or an accomplice of the offender who committed the criminally injurious conduct.

(3) 'Collateral source' means a source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received or that is readily available to him from any of the following sources:

a. The offender;

b. The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states;

c. Social security, medicare, and medicaid;

d. State-required, temporary, nonoccupational disability insurance;

e. Worker's compensation;

f. Wage continuation programs of any employer;

g. Proceeds of a contract of insurance payable to the victim for loss that he sustained because of the criminally injurious conduct;

h. A contract providing prepaid hospital and other health care services, or benefits for disability.

(4) 'Commission' means the Crime Victims Compensation Commission established by G.S. 15B-3.

(5) 'Criminally injurious conduct' means conduct that by its nature poses a substantial threat of personal injury or death, and is punishable by fine or imprisonment or death, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this State. Criminally injurious conduct includes conduct that amounts to an offense involving impaired driving as defined in G.S. 20-4.01(24a), and conduct that amounts to a violation of G.S. 20-166 if the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility impairment device. For purposes of this Chapter, a mobility impairment device is a device that is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour when the device is being operated by a person with a mobility impairment. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle when the

conduct is punishable only as a violation of other provisions of Chapter 20 of the General Statutes. Criminally injurious conduct shall also include an act of terrorism, as defined in 18 U.S.C. § 2331, that is committed outside of the United States against a citizen of this State.

(6) 'Dependent' means an individual wholly or substantially dependent upon the victim for care and support and includes a child of the victim born after his death.

(7) 'Dependent's economic loss' means loss after a victim's death of contributions of things of economic value to his dependents, not including services they would have received from the victim if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death.

(8) 'Dependent's replacement service loss' means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating dependent's economic loss.

Dependent's replacement service loss will be limited to a 26-week period commencing from the date of the injury and compensation shall not exceed two hundred dollars ($200.00) per week.

(9) 'Director' means the Director of the Commission appointed under G.S. 15B-3(g).

(10) 'Economic loss' means economic detriment consisting only of allowable expense, work loss, ~~and~~ replacement services ~~loss.~~ loss, and household support loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement service loss. Noneconomic detriment is not economic loss, but economic loss may be caused by pain and suffering or physical impairment.

(11) 'Noneconomic detriment' means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(12) 'Replacement services loss' means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

Replacement service loss will be limited to a 26-week period commencing from the date of the injury, and compensation may not exceed two hundred dollars ($200.00) per week.

(12a) 'Substantial evidence' means relevant evidence that a reasonable mind might accept as adequate to support a conclusion.

(13) 'Victim' means a person who suffers personal injury or death proximately caused by criminally injurious conduct.

(14) 'Work loss' means loss of income from work that the injured person would have performed if he had not been injured and expenses reasonably incurred by him to obtain services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him, or by income he would have earned in available appropriate substitute work that he was capable of performing but unreasonably failed to undertake.

Compensation for work loss will be limited to 26 weeks commencing from the date of the injury, and compensation ~~may~~ shall not exceed ~~two hundred dollars ($200.00)~~ three hundred dollars ($300.00) per week. A claim for work loss will be paid only upon proof that the injured person was gainfully employed at the time of the criminally injurious conduct and, by physician's certificate, that the injured person was unable to work.

(15) 'Household support loss' means the loss of support that a victim would have received from the victim's spouse for the purpose of maintaining a home or residence for the victim and the victim's dependents. A victim may be compensated fifty dollars ($50.00) per week for each dependent child. Compensation for household support loss shall not exceed three hundred dollars ($300.00) per week and shall be limited to 26 weeks commencing from the date of the injury. A victim may receive only one compensation for household support loss. Household support loss is only available to an unemployed victim whose spouse is the offender who committed the criminally injurious conduct that is the basis of the victim's claim under this act."

(m) G.S. 15B-11 reads as rewritten:

"**§ 15B-11. Grounds for denial of claim or reduction of award.**

(a) An award of compensation shall be denied if:

(1) The claimant fails to file an application for an award within ~~one year~~ two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;

(2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;

(3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;

(4) The award would benefit the offender or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;

(5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility; or

(6) The victim was participating in a felony or a nontraffic misdemeanor at or about the time that the victim's injury occurred.

(b) A claim may be denied and an award of compensation may be reduced upon a finding of contributory misconduct by the claimant or a victim through whom the claimant claims.

(c) A claim may be denied, an award of compensation may be reduced, and a claim that has already been decided may be reconsidered upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies with regard to the criminally injurious conduct that is the basis for the award.

(c1) A claim may be denied upon a finding that the claimant has been convicted of any felony classified as a Class A, B1, B2, C, D, or E felony under the laws of the State of North Carolina and that such felony was committed within 3 years of the time the victim's injury occurred.

(d) After reaching a decision to approve an award of compensation, but before notifying the claimant, the Director shall require the claimant to submit current information as to collateral sources on forms prescribed by the Commission.

An award that has been approved shall nevertheless be denied or reduced to the extent that the economic loss upon which the claim is based is or will be recouped from a collateral source. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitations set forth in subsections (f) and (g). The existence of a collateral source that would pay expenses directly related to a funeral, cremation, and burial, including transportation of a body, shall not constitute grounds for the denial or reduction of an award of compensation.

~~(e) Compensation may not be awarded if the economic loss is less than one hundred dollars ($100.00).~~

(f) Compensation for ~~work loss,~~ replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed two hundred dollars ($200.00) per week. Compensation for work loss and household support loss may not exceed three hundred dollars ($300.00) per week.

(g) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to, or the death of, that victim may not exceed ~~twenty~~

thirty thousand dollars ~~($20,000)~~ ($30,000) in the aggregate in addition to allowable funeral, cremation, and burial expenses.

(h) The right to reconsider or reopen a claim does not affect the finality of its decision for the purpose of judicial review."

(n) G.S. 143B-480.2(a) reads as rewritten:

"(a) Only victims who have reported the following crimes are eligible for assistance under this Program: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5, or attempted first-degree or second-degree rape or attempted first-degree or second-degree sexual offense as defined in G.S. 14-27.6. Assistance is limited to immediate and short-term medical expenses, ambulance services, and mental health services provided by a professional licensed or certified by the State to provide such services, not to exceed ~~five hundred dollars ($500.00)~~ one thousand dollars ($1,000) incurred by the victim for the medical examination, medical procedures to collect evidence, or counseling treatment which follow the attack, or ambulance services from the place of the attack to a place where medical treatment is provided. Assistance not to exceed fifty dollars ($50.00) shall be provided to victims to replace clothing that was held for evidence tests."

(o) The North Carolina Conference of District Attorneys, with assistance from the Administrative Office of the Court and the Governor's Crime Commission, shall present to the General Assembly on or before March 1, 1999, a projection of the costs for full implementation of the provisions of this act with regard to victims of domestic violence. In preparing the report, the Conference of District Attorneys shall use data collected in Prosecutorial Districts 3A, 13, 20, 21, and 26 by domestic violence prosecution programs receiving grant funds from the Governor's Crime Commission. Nothing herein shall prohibit the Conference of District Attorneys from using data from other such grant programs in this State. Failure or delay in presentation of the report shall not result in a delay in the implementation of the provisions of this act relating to victims of domestic violence.

(p) To the extent practicable and within available resources, agencies are encouraged to begin as soon as possible the implementation of applicable victim notification procedures of this act prior to the effective date of July 1, 1999.

(q) Article 85B of Chapter 15A is repealed.

(r) G.S. 15A-830, 15A-833 and 15A-834 as enacted by subsection (c) of this section become effective December 1, 1998, and apply to offenses committed on or after that date. Subsections (d), (e), (f), (g), (h), and (i) of this section become effective December 1, 1998, and apply to offenses committed on or after that date. Subsections (l), (m), and (n) of this section become effective December 1, 1998, and apply to injuries occurring on or after that date. Subsections (o) and (p) of this section are effective when this section becomes law. Subsection (q) of this section becomes effective December 1, 1998, and applies to offenses committed on or after that date. The remainder of this section becomes effective July 1, 1999, and applies to offenses committed on or after that date.

Requested by: Senators Plyler, Perdue, Odom, Gulley, Representatives Holmes, Esposito, Creech, Crawford

CRIME COMMISSION GRANTS/REPORT TO APPROPRIATIONS COMMITTEES

Section 19.5. (a) G.S. 143B-476 is amended by adding a new subsection to read:

"(h) Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to subsection (a) of this section, the Secretary shall report to the Senate and House Appropriations Committees for review of the proposed grant awards."

(b) This section is effective when this act becomes law.

Requested by: Senators Gulley, Plyler, Odom, Representatives Justus, Kiser, Thompson

USE OF HIGHWAY PATROL AIRCRAFT

Section 19.6. (a) G.S. 20-196.1 is repealed.

(b) G.S. 20-196.2 reads as rewritten:

"**§ 20-196.2. Use of ~~airplanes~~ aircraft to discover certain motor vehicle ~~violations of §§ 20-138 to 20-171; testimony of pilots and observers;~~ violations; declaration of policy.**

The State Highway Patrol is hereby permitted the use of ~~airplanes~~ aircraft to discover violations of Part 10 of Article 3 of Chapter 20 of the General Statutes relating to operation of motor vehicles and rules of the ~~road; provided, however, neither the observer nor the pilot shall be competent to testify in any court of law in a criminal action charging violations of G.S. 20-141, 20-141.1, and 20-144.~~ road. It is hereby declared the public policy of North Carolina that the ~~airplanes~~ aircraft should be used primarily for accident prevention and should also be used incident to the issuance of warning citations in accordance with the provisions of G.S. 20-183."

(b) This section becomes effective December 1, 1998.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

STUDY EMERGENCY MANAGEMENT POSITIONS

Section 19.7. (a) The Joint Legislative Corrections and Crime Control Oversight Committee shall study the State and local assistance funding eligibility criteria of the Division of Emergency Management of the Department of Crime Control and Public Safety that requires local governments to have a full-time or part-time Emergency Program Manager. In its deliberations, the Committee shall consider:

(1) The burden placed on local governments to maintain a full-time or part-time position pursuant to the funding eligibility requirements.

(2) The feasibility and advisability of revising the funding eligibility criteria of the Division of Emergency Management to allow small local governments to:

a. Share federal funds and an Emergency Program Manager; or

b. Add the responsibilities of an Emergency Program Manager to an appropriate official or employee of the local government.

(3) The feasibility and advisability of opening regional emergency management offices and allocating funds to regions rather than local governments.

(b) The Committee shall report its findings and recommendations to the 1999 General Assembly.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

UPGRADE CLERICAL POSITIONS IN DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Section 19.8. Of the funds appropriated in this act to the Department of Crime Control and Public Safety for the 1998-99 fiscal year, up to fifteen thousand dollars ($15,000) may be used to upgrade clerical positions to coordinator positions in the community service work program established in the Department pursuant to G.S. 143B-475.1. The Office of State Personnel shall approve each upgrade of clerical positions prior to the use of funds authorized by this section.

Requested by: Senators Gulley, Ballance, Rand, Wellons, Representatives Justus, Kiser, Thompson, Sexton

STUDY DISASTER MITIGATION AND RELIEF FUNDING

Section 19.9. The Department of Crime Control and Public Safety shall study the feasibility and advisability of establishing a disaster mitigation and relief fund to provide disaster relief and recovery assistance to individuals and local governments adversely affected by natural or man-made disasters through grants awarded to persons, corporations, nonprofit corporations, local governments, or other political subdivisions of the State. The Department shall consider and make recommendations regarding:

(1) Administration of the fund, including the membership of the body that establishes grant criteria and awards grants to applicants.

(2) Objectives and criteria for awarding grants, including the eligibility requirements that are appropriate for obtaining grants.

(3) Limitations on the amount of funds to be awarded to individuals and private entities or corporations, including the requirement that grant recipients obtain and maintain insurance against future loss of the property to be replaced, restored, repaired, or constructed with the funds awarded.

(4) Guidelines for prioritizing the allocation of funds to serve the needs of those citizens of the State who cannot obtain financial assistance under any other State or federal program or from any other source and who do not have insurance, including consideration of whether grants should be awarded on a competitive basis only or should be distributed equally to local governments for disaster mitigation on an annual basis.

(5) The intended use of the funds awarded to local governments, including training, upgrade, and standardization of communications capabilities statewide.

(6) Establishment of a system of damage assessment whereby the Secretary of the Department of Crime Control and Public Safety determines whether the damage involved and its effects are of a severity and magnitude as to be beyond the response capabilities of the affected local government or political subdivision and makes recommendations regarding whether a grant should be awarded.

(7) The preferred method of funding a disaster mitigation and relief fund.

The Department shall report its recommendations and legislative proposals to the Joint Legislative Commission on Governmental Operations, the Chairs of the Appropriations Committees of the House of Representatives and the Senate, the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the House of Representatives and the Senate, and the Joint Legislative Corrections and Crime Control Oversight Committee by March 1, 1999. A written copy of the report shall be sent to the Fiscal Research Division of the General Assembly by March 1, 1999.

Requested by: Representative Ellis

TRANSFER BOXING COMMISSION TO DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Section 19.11. (a) The statutory authority, powers, duties, functions, records, property, and unexpended balances of appropriations, allocations, or other funds of the North Carolina State Boxing Commission are transferred from the Department of the Secretary of State to the Department of Crime Control and Public Safety.

(b) G.S. 143-652 reads as rewritten:

"**§ 143-652. State Boxing Commission.**

(a) Creation. – The North Carolina State Boxing Commission is created within the Department of ~~the Secretary of State~~ Crime Control and Public Safety to regulate in North Carolina live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of ~~State.~~ Crime Control and Public Safety. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of ~~State~~ Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of ~~State~~ Crime Control and Public Safety for cause. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of ~~the Secretary of State.~~ Crime Control and Public Safety.

(b) Vacancies. – Members shall serve until their successors are appointed and have been qualified. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. Vacancies for members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. A vacancy in the membership of the Commission other than by expiration of term shall be filled for the unexpired term only.

(c) Meetings. – Meetings of the Commission shall be called by the chair or by any two members of the Commission, and meetings shall be held at least quarterly. Any three voting members of the Commission shall constitute a quorum at any meeting.

Action may be taken and motions and resolutions adopted by the Commission at any meeting by the affirmative vote of a majority of the members of the Commission present at a meeting at which a quorum exists. Any or all members may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in the meeting by this means is deemed to be present in person at the meeting.

(d) Rule-Making Authority of the Commission. – The Commission shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

(1) Requirements for issuance of licenses and permits required by this Article.
(2) Regulation of ticket sales.
(3) Physical requirements for contestants, including classification by weight and skill.
(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996.

(e) Compensation. – None of the members of the Commission shall receive compensation for serving on the Commission. However, members of the Commission may be reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General Statutes.

(f) Staff Assistance. – The Secretary of ~~State~~ Crime Control and Public Safety shall hire a person to serve as Executive Director of the Commission and shall provide staff assistance to the Executive Director. The Executive Director shall enforce this Article through the Division of Alcohol Law Enforcement. If necessary, the Executive Director may train and contract with independent contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission. The Executive Director may initiate criminal background checks on persons requesting to work as independent contractors for the Commission or persons applying to be licensed by the Commission."

(c) G.S. 143-654(c) reads as rewritten:

"(c) Surety Bond. – An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Commission, a surety bond

payable to the Commission for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Commission or (ii) the promoter's failure to fulfill the obligations of any contract between or among licensees related to the holding of a boxing event. The surety bond shall be issued in an amount to be no less than five thousand dollars ($5,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Commission. All surety bonds shall be upon forms approved by the Secretary of ~~State~~ Crime Control and Public Safety and supplied by the Commission."

(d) G.S. 143-655(c) reads as rewritten:

"(c) State Boxing Commission Revenue Account. – There is created the State Boxing Commission Revenue Account within the Department of ~~the Secretary of State.~~ Crime Control and Public Safety. Monies collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

(e) G.S. 143-658 reads as rewritten:

"**§ 143-658. Violations.**

(a) Civil Penalties. – The Secretary of ~~State~~ Crime Control and Public Safety may issue an order against a licensee or other person who willfully violates any provision of this Article, imposing a civil penalty of up to five thousand dollars ($5,000) for a single violation or of up to twenty-five thousand dollars ($25,000) for multiple violations in a single proceeding or a series of related proceedings. No order under this subsection may be entered without giving the licensee or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of ~~State~~ Crime Control and Public Safety may refer any available evidence concerning violations of this Article to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings.

~~The attorneys employed by the Secretary of State shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Secretary of State approves.~~

(c) Injunction. – Whenever it appears to the Secretary of ~~State~~ Crime Control and Public Safety that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule or order hereunder, the Secretary of ~~State~~ Crime Control and Public Safety may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

~~(d) Enforcement. – For purposes of enforcing this Article, the Department of the Secretary of State's law enforcement agents have statewide jurisdiction. These law enforcement agents may assist local law enforcement agencies in their investigations and may initiate and carry out, in coordination with local law enforcement agencies, investigations of violations of this Article. These law enforcement agents have all the powers and authority of law enforcement officers when executing arrest warrants.~~"

(f) G.S. 18B-502(a) reads as rewritten:

"(a) Authority. – To procure evidence of violations of the ABC law, alcohol law-enforcement agents, employees of the Commission, local ABC officers, and officers of local law-enforcement agencies that have contracted to provide ABC enforcement under G.S. 18B-501(f) shall have authority to investigate the operation of each licensed premises for which an ABC permit has been issued, to make inspections that include viewing the entire premises, and to examine the books and records of the permittee. The inspection authorized by this section may be made at any time it reasonably appears that someone is on the premises. Alcohol law-enforcement agents are also authorized to be on the premises to the extent necessary to enforce the provisions of Article 68 of Chapter 143 of the General Statutes."

(g) Section 9 of S.L. 1997-504, as rewritten by Section 18 of S.L. 1998-23, reads as rewritten:

"Section 9. Except as otherwise specified herein, this act is effective when it becomes law. ~~This act expires October 1,1998.~~"

PART XX. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Warren, Lucas, Dannelly, Hoyle, Representatives Ives, McCombs, Sherrill, Holmes, Esposito, Creech, Crawford

DOMESTIC VIOLENCE–ADMINISTRATION OF GRANTS

Section 20.1. (a) The North Carolina Council for Women of the Department of Administration, the Division of Social Services of the Department of Health and Human Services, and the Governor's Crime Commission in consultation with the Office of State Budget and Management shall develop a simplified process by which eligible public and nonprofit entities may apply using a simplified grants process with one application form for any domestic violence grant funds and other grant funds administered by the North Carolina Council for Women, the Division of Social Services, and the Governor's Crime Commission.

(b) The three State agencies listed in subsection (a) of this section shall jointly report on the new process to the Joint Appropriations Subcommittee on General Government by March 31, 1999.

Requested by: Senators Warren, Plyler, Perdue, Odom, Representatives Ives, McCombs, Sherrill

DOMESTIC VIOLENCE PREVENTION FUNDS

Section 20.2. Of the funds appropriated to the Department of Administration, the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year for the North Carolina Council for Women for the prevention of domestic violence and the continuation of domestic violence programs within the State. The Council for Women shall provide grants from these funds to existing domestic violence programs, including the North Carolina Coalition Against Domestic Violence, Inc., and for the development of new domestic violence programs. The Department of Administration or the Council for Women shall not use any of the funds for operating expenses.

Requested by: Senators Warren, Plyler, Perdue, Odom, Representatives Ives, McCombs, Sherrill, Holmes, Esposito, Creech, Crawford

PROCUREMENT CARD PILOT PROGRAM

Section 20.3. (a) Except as provided by this section, no State agency, community college, constituent institution of The University of North Carolina, or local school administrative unit may use procurement cards for the purchase of equipment or supplies before March 31, 1999.

(b) The Secretary of Administration shall designate no more than 15 governmental entities to participate in a pilot program on the purchase of supplies and equipment by procurement card. Those designated shall represent a cross section of governmental entities and shall include at least one State agency, one community college, two constituent institutions of The University of North Carolina, and one local school administrative unit.

(c) The Division of Purchase and Contract and the State Controller shall report to the Joint Legislative Commission on Governmental Operations and the Joint Appropriations Subcommittee on General Government on February 1, 1999, on this pilot program.

The report shall include all of the following:

(1) Estimates from the pilot program of:

a. How many purchasing and accounts payable personnel hours could be saved or redirected or both as a result of the procurement card.

b. The impact of the procurement card on accounting and budgeting records and on purchasing history records.

(2) A discussion of the effect of the procurement card on the State's ability to track both:

a. Out-of-state sales taxes.

b. North Carolina State and local sales tax payments by county.

(3) A discussion of any other costs and benefits of the procurement card.

(d) This section does not affect contracts for procurement cards entered into prior to March 31, 1997.

PART XXI. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senators Warren, Lucas, Dannelly, Hoyle, Representatives Ives, Sherrill

MARITIME MUSEUM/DISPOSITION OF OBJECTS

Section 21. (a) G.S. 106-22.2 is recodified as G.S. 143B-344.22 and reads as rewritten:

"**§ ~~106-22.2.~~ 143B-344.22. Museum of Natural Sciences; ~~Maritime Museum;~~ disposition of objects.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of ~~Agriculture and Consumer Services~~ Environment and Natural Resources may sell or exchange any object from the ~~collections~~ collection of the Museum of Natural Sciences ~~and the~~

~~Maritime Museum~~ when it would be in the best ~~interests~~ interest of the ~~Museums~~ Museum to do so. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the ~~Museums'~~ Museum's collections or exhibits."

(b) Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.1. Maritime Museum; disposition of artifacts.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Cultural Resources, with the approval of the North Carolina Historical Commission, may sell, trade, or place on permanent loan any artifact from the collection of the North Carolina Maritime Museum unless the sale, trade, or loan would be contrary to the terms of the acquisition. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an artifact is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits."

Requested by: Senators Warren, Lucas, Dannelly, Hoyle, Plyler, Perdue, Odom, Representatives Ives, Sherrill

ROANOKE ISLAND COMMISSION CHANGES

Section 21.1. (a) G.S. 143B-131.2(b)(10) reads as rewritten:

"(10) To establish and maintain a separate fund composed of moneys which may come into its hands from gifts, donations, grants, or bequests, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Commission may also establish a reserve fund to be maintained and used for contingencies and emergencies. Funds appropriated to the Commission may be transferred to the Friends of Elizabeth II, Inc., a private, nonprofit corporation. The Friends of Elizabeth II, Inc., shall use the funds transferred to it to carry out the purposes of this Part."

(b) G.S. 143B-131.2(b)(15) reads as rewritten:

"(15) To procure supplies, services, and property as appropriate and to enter into contracts, leases, or other legal agreements ~~consistent with State laws and Department rules~~ to carry out the purposes of this Part and duties of the Commission. The provisions of G.S. 143-129 and Article 3 of Chapter 143 of the General Statutes do not apply to purchases by the Roanoke Island Commission of equipment, supplies, and services."

Requested by: Senators Warren, Plyler, Perdue, Odom, Representatives Bowie, Holmes, Esposito, Creech, Crawford

UNITED ARTS COUNCIL FUNDS

Section 21.2. Of the funds appropriated in this act to the Department of Cultural Resources, the sum of sixty-eight thousand two hundred dollars ($68,200) may

be allocated to the United Arts Council of Greensboro, Inc. The funds allocated pursuant to this section shall only be used for construction and renovation of facilities and for production costs associated with performing arts programs.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

GRANTS FOR SMALL LIBRARIES AND LIBRARIES IN ECONOMICALLY DISTRESSED COUNTIES

Section 21.3. The one million dollars ($1,000,000) appropriated by this act to the Department of Cultural Resources for aid to small libraries and libraries in economically distressed counties shall be allocated by the Secretary of that department to support capital improvements, including renovations, to public libraries in small, economically distressed counties only.

Requested by: Senators Rand, Warren, Lucas, Dannelly, Hoyle, Representatives Ives, Sherrill

STUDY RECLASSIFICATION OF STATE MUSEUM BRANCH DIRECTORS

Section 21.5. The Office of State Personnel shall study whether to reclassify the Branch Museum Administrators at the Mountain Gateway Museum, the Museum of the Albemarle, and the Museum of the Cape Fear. The Office of State Personnel shall report its findings and recommendations to the 1999 General Assembly.

PART XXIA. GENERAL ASSEMBLY

Requested by: Representative Creech

STUDY DEFINITION OF DOING BUSINESS IN NORTH CAROLINA

Section 21A.1. (a) The Revenue Laws Study Commission shall study the issue of when a corporation is doing business in North Carolina for the purposes of G.S. 105-130.3.

(b) This section is effective when it becomes law.

PART XXII. OFFICE OF ADMINISTRATIVE HEARINGS

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill

EEOC DEFERRED CASES TO OAH/REPEAL SUNSET

Section 22. Section 5 of S.L. 1997-513 reads as rewritten:

"Section 5. Section 1 of this act is effective when it becomes law, applies to charges pending or filed on and after that ~~date, and expires December 31, 1998.~~ date. The remainder of this act becomes effective July 1, 1997, and applies to all suggestions and innovations pending on that date that were submitted under the former State Employee Suggestion Program as authorized by G.S. 143-340(1) on or before June 30, 1997."

PART XXIV. STATE BOARD OF ELECTIONS

Requested by: Senators Warren, Dannelly, Lucas, Hoyle, Representatives Ives, McCombs, Sherrill

EXTEND STATEWIDE DATA ELECTIONS MANAGEMENT SYSTEM

Section 24. Section 31(a) of S.L. 1997-443 reads as rewritten:

"(a) The State Board of Elections shall establish a statewide data elections management system. The system shall prescribe data format standards, data communication standards, and data content standards. The State Board of Elections shall establish the system no later than November 1, 1997. Counties shall adhere to the standards prescribed by the system no later than ~~August 31, 1998.~~ July 1, 1999. The State Board of Elections may adopt rules to implement this section. Chapter 150B of the General Statutes governs the adoption of rules by the State Board of Elections."

Requested by: Senator Odom, Representative McMahan

CHARTER AMENDMENT

Section 24.2. (a) G.S. 160A-104 is amended by adding the following at the end: "Notwithstanding the second sentence of this section, an initiative petition shall bear the signatures and resident addresses of a number of qualified voters of the city equal to at least six percent (6%) of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the county board of elections."

(b) This section applies only to the City of Charlotte.

(c) This section becomes effective September 1, 1999.

PART XXV. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Senators Warren, Plyler, Perdue, Odom, Kerr, Representatives Ives, McCombs, Sherrill

ALLOW VOLUNTEER FIRE DEPARTMENT/RESCUE EMS GRANT FUNDS TO BE USED TO PAY HIGHWAY USE TAX ON EQUIPMENT PURCHASES

Section 25. (a) G.S. 58-87-1(a) reads as rewritten:

"(a) There is created the Volunteer Fire Department Fund to provide matching grants to volunteer fire departments to purchase equipment and make capital improvements. The Fund shall be set up in the Department of Insurance. The State Treasurer shall invest its assets according to law, and the earnings shall remain in the Fund. The Fund shall be distributed under the direction of the Commissioner of Insurance. Beginning January 1, 1988, an eligible fire department may apply to the Commissioner of Insurance for a grant under this section. Beginning May 1, 1988, and on each May 15, thereafter, the Commissioner shall make grants to eligible fire departments subject to the following limitations:

(1) The size of a grant may not exceed twenty thousand dollars ($20,000);

(2) The applicant shall match the grant on a dollar-for-dollar basis;

(3) The grant may be used only for equipment ~~purchases~~ purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection services; and

(4) An applicant may receive no more than one grant per fiscal year.

In awarding grants under this section, the Commissioner shall to the extent possible select applicants from all parts of the State based upon need. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.

No fire department may be declared ineligible for a grant under this section solely because it is classified as a municipal fire department."

(b) G.S. 58-87-5(a) reads as rewritten:

"(a) There is created in the Department of Insurance the Volunteer Rescue/EMS Fund to provide grants to volunteer rescue units providing rescue or rescue and emergency medical services to purchase equipment and make capital improvements. An eligible rescue or rescue/EMS unit may apply to the Department of Insurance for a grant under this section. The application form and criteria for grants shall be established by the Department. The Department of Health and Human Services shall provide the Department with an advisory priority listing of EMS equipment eligible for funding. The State Treasurer shall invest the Fund's assets according to law, and the earnings shall remain in the Fund. On December 15 of each year, the Department shall make grants to eligible rescue or rescue/EMS units subject to all of the following limitations:

(1) A grant to an applicant who is required to match the grant with non-State funds may not exceed fifteen thousand dollars ($15,000), and a grant to an applicant who is not required to match the grant with non-State funds may not exceed three thousand dollars ($3,000).

(2) An applicant whose liquid assets, when combined with the liquid assets of any corporate affiliate or subsidiary of the applicant, are more than one thousand dollars ($1,000) shall match the grant on a dollar-for-dollar basis with non-State funds.

(3) The grant may be used only for equipment ~~purchases~~ purchases, payment of highway use taxes on those purchases, or capital expenditures.

(4) An applicant may receive no more than one grant per fiscal year.

In awarding grants under this section, the Department shall to the extent possible select applicants from all parts of the State based upon need. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year. In addition, notwithstanding G.S. 58-78-20, up to four percent (4%) of the Fund may be used for additional staff and resources for the North Carolina Fire and Rescue Commission."

Requested by: Representatives Holmes, Esposito, Creech, Crawford, Ives, McCombs, Sherrill

STATE VETERANS NURSING HOME STUDY

Section 25.1. The Office of State Budget and Management, Management Section, shall conduct a study assessing the need for nursing home beds for veterans. In conducting the study, the Office of State Budget shall consult with the Department of

Administration, Division of Veterans Affairs, and the Department of Health and Human Services. The study shall include the following:

(1) The size and number of facilities required to meet the needs of the present and predicted veterans population.

(2) The need for geographical diversity in the location of facilities across North Carolina to serve the veterans and their families.

(3) The estimated cost of constructing and operating new facilities and sources of funding for the construction and operations of the facilities.

(4) As an alternative to constructing new facilities, the feasibility of placing veterans in private nursing homes or other appropriate facilities where space is available and underutilized.

(5) Cost to the State and individual veterans for utilization of private facilities for veterans nursing home care, and comparison of such costs to the cost of construction, maintenance and provision of care in new facilities.

The Office of State Budget and Management shall report the findings of the study to the 1999 Session of the General Assembly by submitting a report to members of the House of Representatives Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government by April 1, 1999.

Requested by: Senators Martin of Pitt, Jenkins, Weinstein, Albertson, Representatives Holmes, Esposito, Creech, Crawford, Mitchell, Baker, Carpenter, H. Hunter

BLUE RIDGE REGIONAL DESTINATION CENTER

Section 25.2. Of the funds appropriated to the Office of State Budget and Management for the 1998-99 fiscal year the sum of two million five hundred thousand dollars ($2,500,000) shall be placed in reserve for the construction of the Blue Ridge Regional Destination Center to be located next to the Blue Ridge Parkway Headquarters Building in Buncombe County. The funds in the reserve may be used only if federal funds are available and obligated in fiscal year 1998-99 for the construction of the Blue Ridge Regional Destination Center and if State funds are needed for that project. If the project does not receive federal funds by December 31, 1998, then those funds shall be reallocated to the Board of Governors of The University of North Carolina for the Highsmith Center at the University of North Carolina at Asheville.

PART XXVI. OFFICE OF STATE CONTROLLER

Requested by: Senators Warren, Plyler, Perdue, Odom, Representatives Ives, McCombs, Sherrill

PILOT PROGRAM ON REPORTING ON COLLECTION OF BAD DEBTS BY STATE AGENCIES

Section 26. (a) The General Assembly finds that a significant number of bad debts are owed to State agencies, and even expansion of the Debt Collection Setoff Act scheduled for 2000 may still leave room for improvement. The General Assembly has been presented information on the extent of the debts but lacks sufficient information to

determine if the lack of collection in some cases relates to inability to the debtor to pay, contractual discharges that may have been taken to receive partial recovery from third parties, or need to improve collection procedures within State agencies. Focusing on health care institutions within State government will allow maximum information without disrupting other agencies which have small amounts of bad debts.

(b) The Office of State Controller shall establish a procedure by which health care institutions under or affiliated with the Department of Health and Human Services or The University of North Carolina shall report on collection of bad debts. This pilot program is intended to concentrate on agencies that have a large amount of bad debts, in order to determine the extent to which those debts may be better collected both in those agencies and in the whole of State government.

(c) The procedures shall require that in the case of each bad debt, that debt is reported to the Office of State Controller with its total amount and with standardized codes indicating the type of debt, the actions taken to collect the debt, and the estimate of the agency on the likelihood of being able to collect the bad debt.

(d) The Office of State Controller shall report the results of the pilot study to the General Assembly no later than April 1, 1999, along with recommendations on changes in law or procedure to better collect the bad debts.

Requested by: Representative Church

RECOVERY OF OVERPAYMENTS BY STATE AGENCIES

Section 26.1. G.S. 147-86.22(c) reads as rewritten:

"(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of an individual's tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

No later than January 1, 1999, the State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

PART XXVIA. OFFICE OF STATE TREASURER

Requested by: Senators Warren, Dannelly, Lucas, Hoyle, Plyler, Perdue, Odom, Representatives Ives, Sherrill, McCombs, Holmes, Esposito, Creech, Crawford

DEPARTMENT OF STATE TREASURER/OFFICE SPACE IN ALBEMARLE BUILDING AND FUNDS FOR MOVING EXPENSES

Section 26A. (a) The Secretary of Administration may allocate to the Department of State Treasurer in the Albemarle Building the remaining space on the fifth floor that is not already allocated to the Department, as the space becomes available during the 1998-99 fiscal year, and 7,000 square feet of contiguous space on the sixth floor, as the space becomes available during the 1998-99 fiscal year.

(b) If the Secretary of Administration allocates space as described in subsection (a) of this section, the Department may expend up to four hundred seventy thousand seven hundred fifty dollars ($470,750) from departmental receipts and up to forty-four thousand dollars ($44,000) from funds appropriated in this act for expenses that are incurred as a result of the Department's relocation.

PART XXVIB. DEPARTMENT OF INSURANCE

Requested by: Senator Odom, Representative McMahan

INSURANCE LAW CHANGES

Section 26B. (a) G.S. 58-7-50(d) reads as rewritten:

"(d) This section is subject to the exceptions provided in G.S. 58-7-55. The Commissioner may allow a domestic insurer to maintain certain records or assets outside this State."

(b) G.S. 58-2-131(a) reads as rewritten:

"(a) This section and G.S. 58-2-132 ~~and G.S. 58-2-133~~ through G.S. 58-2-134 shall be known and may be cited as the Examination Law. The purpose of the Examination Law is to provide an effective and efficient system for examining the activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this State and all persons otherwise subject to the Commissioner's jurisdiction; and to enable the Commissioner to use a flexible system of examinations that directs resources that are appropriate and necessary for the administration of the insurance statutes and rules of this State."

(c) G.S. 58-2-131(b) reads as rewritten:

"(b) As used in this ~~section, G.S. 58-2-132 and G.S. 58-2-133,~~ section and G.S. 58-2-132 through G.S. 58-2-134, unless the context clearly indicates otherwise:

(1) 'Commissioner' includes an authorized representative or designee of the Commissioner.

(2) 'Examination' means an examination conducted under the Examination Law.

(3) 'Examiner' means any person authorized by the Commissioner to conduct an examination.

(4) 'Insurance regulator' means the official or agency of another jurisdiction that is responsible for the regulation of a foreign or alien insurer.

(5) 'Person' includes a trust or any affiliate of a person."

(d) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-2-134. Cost of certain examinations.**

An insurer shall reimburse the State Treasurer for the actual expenses incurred by the Department in any examination of those records or assets conducted pursuant to G.S. 58-2-131, 58-2-132, or 58-2-133 when:

(1) The insurer maintains part of its records or assets outside this State under G.S. 58-7-50 or G.S. 58-7-55 and the examination is of the records or assets outside this State.

(2) The insurer requests an examination of its records or assets.

(3) The Commissioner examines an insurer that is impaired or insolvent or is unlikely to be able to meet obligations with respect to known or anticipated claims or to pay other obligations in the normal course of business.

The amount paid by an insurer for an examination of records or assets shall not exceed one hundred thousand dollars ($100,000), unless the insurer and the Commissioner agree on a higher amount. The State Treasurer shall deposit all funds received pursuant to this section in the Insurance Regulatory Fund established pursuant to G.S. 58-6-25."

(e) G.S. 58-7-16(f) reads as rewritten:

"(f) The Commissioner has sole authority to regulate the issuance and sale of funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the Commissioner may adopt rules relating to:

(1) Standards to be followed in the approval of forms of funding agreements.

(2) Reserves to be maintained by insurers issuing funding agreements.

(3) Accounting and reporting of funds credited under funding agreements.

(4) Disclosure of information to be given to holders and prospective holders of funding agreements.

(5) Qualification and compensation of persons selling funding agreements on behalf of insurers.

In determining minimum valuation reserves to be maintained by insurers issuing funding agreements, the Commissioner may use any relevant actuarial guideline, regulation, interpretation, or paper published by the Society of Actuaries or the American Academy of Actuaries that the Commissioner considers reasonable."

(f) G.S. 58-2-131(d) reads as rewritten:

"(d) The Commissioner may conduct an examination of any insurer whenever the Commissioner deems it to be prudent for the protection of policyholders but shall at a minimum conduct ~~an~~ a regular examination of every domestic insurer not less frequently than once every ~~three~~ five years. In scheduling and determining the nature, scope, and frequency of examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or

ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the NAIC Examiners' Handbook."

(g) G.S. 58-2-205 reads as rewritten:

"**§ 58-2-205. CPA audits of financial statements.**

The Commissioner ~~is authorized to~~ may adopt rules to provide for audits and opinions of insurers' financial statements by certified public accountants. ~~Such~~ These rules shall be ~~in accordance with~~ substantially similar to the NAIC model rule that requires audited financial reports, as amended. The Commissioner may adopt, amend, or repeal provisions of these rules under G.S. 150B-21.1 in order to keep these rules current with the NAIC model rule."

(h) G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a3) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Insurance may adopt a temporary rule to implement the provisions of G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing. When the Commissioner adopts a temporary rule pursuant to this subsection, the Commissioner must submit the reference to this subsection as the Commissioner's statement of need to the Codifier of Rules."

(i) G.S. 58-7-170(c) reads as rewritten:

"(c) ~~The cost of investments made by insurers in mortgage loans, authorized by G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus. An insurer shall not invest in additional mortgage loans without the Commissioner's consent if the admitted value of all mortgage loans held by the insurer exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted value of all mortgage pass-through securities permitted by G.S. 58-7-173(17) does not exceed twenty-five percent (25%) of the admitted assets of the insurer and (ii) the admitted value of other mortgage loans permitted by G.S. 58-7-179 does not exceed forty percent (40%) of the admitted assets of the insurer.~~

~~An insurer that, as of October 1, 1993, has mortgage investments that exceed the aggregate limitation specified in this subsection shall submit to the Commissioner no later than January 31, 1994, a plan to bring the amount of mortgage investments into compliance with the limitations by January 1, 2001.~~

The cost of investments made by an insurer in mortgage loans authorized by G.S. 58-7-179 with any one person, or in mortgage pass-through securities and derivatives of mortgage pass-through securities authorized by G.S. 58-7-173(1), (2), (8), or (17), and backed by a single collateral package, shall not exceed three percent (3%) of the insurer's admitted assets. An insurer shall not invest in additional mortgage loans or mortgage pass-through securities and derivatives of mortgage pass-through securities without the Commissioner's consent if the admitted value of all those investments held by the insurer exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer. Within the aggregate sixty percent (60%) limitation, the admitted value of all mortgage pass-through securities and derivatives of mortgage pass-through securities permitted by G.S. 58-7-173(17) shall not exceed thirty-five percent (35%) of the admitted assets of the insurer. The admitted value of other mortgage loans permitted by

G.S. 58-7-179 shall not exceed forty percent (40%) of the admitted assets of the insurer. Mortgage pass-through securities authorized by G.S. 58-7-173(1), (2), or (8) shall only be subject to the single collateral package limitation and the sixty percent (60%) aggregate limitation. No later than January 31, 1999, an insurer that has mortgage investments that exceed the limitations specified in this subsection shall submit to the Commissioner a plan to bring the amount of mortgage investments into compliance with the specified limitations by January 1, 2004."

(j) This section is effective when it becomes law.

PART XXVII. DEPARTMENT OF TRANSPORTATION

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

Section 27. Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR ONE YEAR

Section 27.2. G.S. 136-176(a)(4) and G.S. 136-183 are suspended from July 1, 1998, to June 30, 1999.

Requested by Senator Jordan, Representatives Bowie, Dockham, McMahan

FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section 27.3. Section 32.18 of S.L. 1997-443 reads as rewritten:

"Section 32.18. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars ($10,000,000) of federal highway funds during each year of the 1997-99 biennium for improvements to public transportation."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section 27.4. (a) Section 32.13 of S.L. 1997-443 reads as rewritten:

"Section 32.13. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 1999-2000 ~~$1,182.2~~ $1,190.8 million
FY 2000-2001 ~~$1,211.2~~ $1,225.7 million
FY 2001-2002 ~~$1,241.2~~ $1,265.4 million
FY 2002-2003 ~~$1,271.9~~ $1,301.0 million

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

FY 1999-2000 ~~$861.7~~ $871.4 million
FY 2000-2001 ~~$891.0~~ $901.8 million
FY 2001-2002 ~~$921.6~~ $934.7 million
FY 2002-2003 ~~$953.3~~ $967.2 million."

(b) Section 4 of S.L. 1998-23 is repealed.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED

Section 27.5. (a) Section 2 of Chapter 1147 of the 1981 Session Laws, as amended by all of the following:

Chapter 318 of the 1983 Session Laws
Chapter 1024 of the 1987 Session Laws
Section 1 of Chapter 166 of the 1989 Session Laws
Section 1 of Chapter 725 of the 1993 Session Laws

reads as rewritten:

"Sec. 2. This act is effective upon ratification, but shall expire ~~June 30, 1998,~~ June 30, 2002, and shall have no force or effect after that date."

(b) Section 7(a) of S.L. 1998-23 is repealed.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE

Section 27.6. (a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the

Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through ~~(8)~~ (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

(b) G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions violations.**

The Division ~~must~~ shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this ~~subsection~~ section has been paid."

Requested by: Senator Ballance

REOPEN STATE HIGHWAY IN BERTIE COUNTY

Section 27.7. (a) The Department of Transportation may use available funds to reopen S.R. 1109 in Bertie County.

(b) If a court determines that reopening the road requires compensation, then the Department of Transportation may expend funds from the Highway Fund in fiscal year 1998-99 for that purpose.

Requested by: Representative Weatherly

BRANDED TITLE CLARIFICATION

Section 27.8. (a) G.S. 20-71.3 reads as rewritten:

"**§ 20-71.3. Salvage and other vehicles – ~~Titles~~ titles and registration cards to be branded.**

~~Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded. As used herein "branded"means that the title and registration card shall contain a designation that discloses if the vehicle is classified as (a) Flood Vehicle, (b) Non-U.S.A. Vehicle, (c) Reconstructed Vehicle, (d) Salvage Motor Vehicle, or (e) Salvage Rebuilt Vehicle or other classification authorized by law. Any motor vehicle up to six model years old damaged by collision or other occurrence which is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the Division, and the Division shall refuse to issue a title to a vehicle up to six model years old which has not undergone a preliminary inspection. These inspections serve as an antitheft measure and do not certify the safety or roadworthiness of a vehicle. Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered. A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value. The Commissioner shall prepare necessary forms and may adopt regulations required to carry out the provisions of this Part 3A. The title shall reflect the branding until surrendered to or cancelled by the Commissioner.~~

(a) Motor vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded in accordance with this section.

As used in this section, 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

(1) Salvage Motor Vehicle.

(2) Salvage Rebuilt Vehicle.

(3) Reconstructed Vehicle.

(4) Flood Vehicle.
(5) Non-U.S.A. Vehicle.
(6) Any other classification authorized by law.

(b) Any motor vehicle up to and including six model years old damaged by collision or other occurrence, that is to be retitled in this State, shall be subject to preliminary and final inspections by the Enforcement Section of the Division.

These inspections serve as antitheft measures and do not certify the safety or road-worthiness of a vehicle.

(c) The Division shall not retitle a vehicle described in subsection (b) of this section that has not undergone the preliminary and final inspections required by that subsection.

(d) Any motor vehicle up to and including six model years old that has been inspected pursuant to subsection (b) of this section may be retitled with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

(1) The parts used or replaced.
(2) The major components replaced.
(3) The hours of labor and the hourly labor rate.
(4) The total cost of repair.

The unbranded title shall be issued only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(e) Any motor vehicle more than six model years old damaged by collision or other occurrence that is to be retitled by the State may be retitled, without inspection, with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

(1) The parts used or replaced.
(2) The major components replaced.
(3) The hours of labor and the hourly labor rate.
(4) The total cost of repair.

The unbranded title shall be issued only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) The Division shall maintain the affidavits required by this section and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

(g) Any motor vehicle that has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(h) A branded title for a salvage motor vehicle damaged by collision or other occurrence shall be issued if the cost of repairs, including parts and labor, exceeds seventy-five percent (75%) of its fair market retail value.

(i) Once the Division has issued a branded title for a motor vehicle all subsequent titles for that motor vehicle shall continue to reflect the branding.

(j) The Division shall prepare necessary forms and may adopt rules required to carry out the provisions of this Part."

(b) G.S. 20-71.4(a) reads as rewritten:

"~~(a) It shall be unlawful and constitute a Class 2 misdemeanor for any transferor who knows or reasonably should know that a motor vehicle has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle exceeds twenty-five percent (25%) of its fair market retail value, or that the motor vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle, to fail to disclose that fact in writing to the transferee prior to transfer of any vehicle up to five model years old. Failure to disclose any of the above information will also result in civil liability under G.S. 20-348. The Commissioner may prepare forms to carry out the provisions of this section.~~

(a) It shall be unlawful and constitute a Class 2 misdemeanor for any transferor who knows or reasonably should know that:

(1) A motor vehicle up to and including five model years old has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle exceeds twenty-five percent (25%) of its fair market retail value at the time of the damage; or

(2) The motor vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle

to fail to disclose that fact in writing to the transferee prior to the transfer of the vehicle. Failure to disclose any of the above information will also result in civil liability under G.S. 20-348. The Commissioner may prepare forms to carry out the provisions of this section."

(c) The Joint Legislative Transportation Oversight Committee shall study all aspects of salvage titles, antitheft inspections, and damage disclosures and shall make recommendations for any needed statutory changes to the 1999 Session of the General Assembly.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS

Section 27.9. Of the funds appropriated in this act to the Department of Transportation, up to three million three hundred ninety thousand seven hundred eight dollars ($3,390,708) may be used to adjust the salaries and benefits of the enforcement officers assigned to the Enforcement Section of the Division of Motor Vehicles.

These adjustments shall be based on factors such as: employee salary, position class title, position grade, and creditable years of sworn service with the Enforcement Section.

No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment.

Before adjusting salaries or benefits pursuant to this section, the Department of Transportation shall do all of the following:

(1) Consult with and get approval of the Office of State Personnel.

(2) Report to the Joint Legislative Transportation Oversight Committee.
(3) Report to the Joint Legislative Commission on Governmental Operations.

Requested by: Representative C. Wilson

PERFORMANCE AUDIT OF PUBLIC TRANSPORTATION AND RAIL DIVISIONS

Section 27.10. The State Auditor shall conduct a performance audit of the Public Transportation and Rail Divisions of the Department of Transportation. The performance audit shall be conducted according to Government Auditing Standards as promulgated by the Comptroller General of the United States. The results of the audit shall be presented to the Fiscal Research Division of the General Assembly no later than February 1, 1999.

Requested by: Senators Plyler, Odom, Perdue, Representatives McMahan, Bowie, Dockham

REGIONAL TRANSPORTATION STUDY BY CENTRALINA COUNCIL OF GOVERNMENTS FUNDS

Section 27.12. From funds appropriated to the Department of Transportation from the Highway Fund, the Department shall expend up to five hundred thousand dollars ($500,000) for the 1998-99 fiscal year to fund an ongoing regional transportation study by the Centralina Council of Governments through the Regional Business Committee on Transportation.

The study shall be conducted by the Regional Business Committee on Transportation and administered through the Centralina Council of Governments.

Funds expended for the regional transportation study shall be approved by the Department of Transportation which shall make written reports to the Joint Legislative Transportation Oversight Committee on the progress of the study.

These funds do not revert at the end of the 1998-99 fiscal year, but remain available until the study is complete.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY NONBETTERMENT UTILITY RELOCATIONS

Section 27.13. (a) The Joint Legislative Transportation Oversight Committee shall study the statutory requirement in G.S. 136-27.1 that the Department of Transportation pay, in certain circumstances, for the nonbetterment costs for the relocations of water and sewer lines located within existing State highway rights-of-way that are necessary to be relocated for State highway improvement projects.

(b) The Joint Legislative Transportation Oversight Committee shall report the results of this study to the General Assembly by December 31, 1999.

Requested by: Representatives McMahan, Bowie, Dockham

BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION

Section 27.15. (a) Commission Established. – There is established a Blue Ribbon Transportation Finance Study Commission.

(b) Membership. – The Commission shall be composed of 15 members as follows:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Three members of the Senate appointed by the President Pro Tempore of the Senate.

(3) Three members of the public appointed by the Governor, none of whom shall be State officials, and two of whom shall have expertise in transportation matters.

(4) Three members of the public appointed by the Speaker of the House of Representatives, one of whom shall be a municipal-elected official, and one of whom shall have expertise in transportation matters.

(5) Three members of the public appointed by the President Pro Tempore of the Senate, one of whom shall be an elected county official, and one of whom shall have expertise in transportation matters.

(b1) Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

(c) Duties of Commission. – The Commission shall study the following matters related to Transportation Finance:

(1) The Highway Trust Fund Act of 1989. – The Commission shall review the current law and recommend any revisions that may be necessary, based on the nine-year history of the fund and the current transportation needs of the State.

(2) Current revenue sources. – The Commission shall review all current revenue sources that support State transportation programs, and recommend changes, additions, or deletions based on projected needs for the next 25 years.

(3) Transportation system maintenance. – The Commission shall review current financing of transportation system maintenance and recommend changes to accommodate maintenance of new construction and increased traffic volume.

(4) Public transportation. – The Commission shall evaluate funding public transportation with dedicated sources of funds. The Commission's recommendation shall include specific sources and amounts of any dedicated funds, if recommended.

(5) Transfers from the Highway Fund to other State agencies, including whether or not those funds would more appropriately come from the General Fund.

(6) Other transportation financing issues. – The Commission may study any other transportation finance-related issue approved by the cochairs

or recommended by the Secretary of Transportation and approved by the cochairs.

(d) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

(e) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

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

(g) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

(h) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

(h1) Meetings During Legislative Session. – The Commission may meet during a regular or special session of the General Assembly, subject to approval of the Speaker of the House of Representatives and President Pro Tempore of the Senate.

(i) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

(j) Report. – The Commission shall submit an interim report to the Joint Legislative Transportation Oversight Committee on or before June 1, 1999. The Commission shall submit a final report to the Joint Legislative Transportation Oversight Committee by March 1, 2000. Upon the filing of its final report, the Commission shall terminate.

(k) Appropriation. – From appropriations to the General Assembly, the Legislative Services Commission may allocate up to two hundred thousand dollars ($200,000) for the expenses of the Commission.

Requested by: Representatives Bowie, Dockham, McMahan

MEDIUM CUSTODY ROAD CREW COMPENSATION

Section 27.16. (a) Of funds appropriated to the Department of Transportation by this act, six million five hundred thousand dollars ($6,500,000) shall be used by the Department to reimburse the Department of Correction during the 1998-99 fiscal year for costs authorized by G.S. 148-26.5 for reimbursement for highway-related labor performed by medium custody prisoners. The Department of Transportation may use funds appropriated by this act to pay requested reimbursements submitted by the Department of Correction over and above the six million five hundred thousand dollars ($6,500,000), but those reimbursement requests shall be subject to

negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

(b) Sections 19.16 and 32.2 of S.L. 1997-443 are repealed.

Requested by: Representative Hiatt

DMV MEDICAL EVALUATION PROGRAM ENHANCEMENT FUNDS

Section 27.17. Of funds appropriated from the Highway Fund to the Division of Motor Vehicles, the sum of ninety-three thousand five hundred thirteen dollars ($93,513) for the 1998-99 fiscal year shall be used to fund an additional Public Health Physician II in the Department of Health and Human Services to review the medical records of the growing number of drivers referred to the Drivers License Medical Evaluation Program. This implements a recommendation of the Drivers License Medical Evaluation Program Study Commission.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan

DISCLOSURE OF PERSONAL INFORMATION IN MOTOR VEHICLE RECORDS

Section 27.18. (a) Section 17.1 of Chapter 23 of the 1998 Session Laws reads as rewritten:

"Section 17.1. Notwithstanding any other provision of law, the Division of Motor Vehicles shall not disclose personal information in its records for purposes specified in 18 U.S.C § 2721(b)(12) prior to ~~July 1, 1999.~~ January 1, 2000. This section shall not expire until ~~July 1, 1999.~~ January 1, 2000."

(b) The Joint Legislative Transportation Oversight Committee shall study the issue of disclosure of personal information in Division of Motor Vehicles records and report its recommendations to the General Assembly on or before December 1, 1999.

PART XXVIII. SALARIES AND BENEFITS

Requested by: Senators Plyler, Perdue, Odom

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 28.2. (a) Section 33.2 of Chapter 443 of the 1997 Session Laws, as amended by Section 5 of S.L. 1998-153, reads as rewritten:

"Section 33.2. The annual salaries, payable monthly, for the 1998-99 fiscal year, beginning July 1, 1998, for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$86,602
State Controller	121,199
Commissioner of Motor Vehicles	86,602
Commissioner of Banks	97,389

Chairman, Employment Security Commission	121,046
State Personnel Director	95,149
Chairman, Parole Commission	79,078
Members of the Parole Commission	73,008
Chairman of the Utilities Commission	~~98,460~~108,459
Commissioners of the Utilities Commission	97,388
Executive Director, Agency for Public Telecommunications	73,008
General Manager, Ports Railway Commission	65,925
Director, Museum of Art	88,739
~~Executive Director, Wildlife Resources Commission~~	~~74,746~~
Executive Director, North Carolina Housing Finance Agency	107,179
Executive Director, North Carolina Agricultural Finance Authority	84,294
Director, Office of Administrative Hearings	83,141".

(b) Notwithstanding subsection (a) of this section, the changes in this section for the salaries of the Executive Director of the Wildlife Resources Commission and the Chairman of the Utilities Commission become effective November 1, 1998.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Section 28.7. (a) G.S. 120-37(c) as rewritten by Section 10 of S.L. 1998-153 reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~sixty-one thousand six hundred fifty-seven dollars ($61,657)~~ eighty-one thousand six hundred ninety-six dollars ($81,696) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

(b) This section becomes effective November 1, 1998.

Requested by: Senators Lee, Martin of Guilford, Plyler, Perdue, Odom, Representatives Arnold, Gardner, Cansler, Clary, Holmes, Esposito, Creech, Crawford

AGENCY TEACHER SUPPLEMENT

Section 28.16. Section 19 of S.L. 1998-153 is amended by adding a new subsection to read:

"(d1) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1998-99 funds necessary to provide statewide teacher supplements for State agency teachers who are paid on the teacher salary schedule as set out in Section 1 of this act based on five percent (5%) of their salaries."

Requested by: Representative Allred

STATE EMPLOYEE COLA/RESOLVED DISCIPLINARY ACTIONS

Section 28.16B. (a) G.S. 126-7(c)(4b) reads as rewritten:

"(4b) An employee whose performance is rated at or above level two of the rating scale and who ~~is~~ has not ~~involved in the final written stage of the disciplinary procedure~~ received a suspension without pay or demotion that has not been resolved shall receive a cost-of-living increase. Other than the Commission, no agency, department, or institution shall set limits or initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment."

(b) Section 19(c) of S.L. 1998-153 reads as rewritten:

"(c) The salary increases provided in this act are to be effective July 1, 1998, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, ~~1998, or to employees involved in final written disciplinary procedures. The employee shall receive the increase on a current basis when the final written disciplinary procedure is resolved.~~ 1998.

Payroll checks issued to employees after July 1, 1998, which represent payment of services provided prior to July 1, 1998, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina."

(c) This section becomes effective July 1, 1998, and applies to any employee involved in the final written stage of a disciplinary procedure on or after January 1, 1997.

Requested by: Senators Plyler, Perdue, Odom, Rand

SALARIES OF THE ADMINISTRATOR AND THE EXECUTIVE SECRETARY OF THE INDUSTRIAL COMMISSION SET BY STATUTE

Section 28.18. (a) G.S. 97-78 reads as rewritten:

"**§ 97-78. Salaries and expenses; ~~secretary and other clerical~~ administrator, executive secretary, and other staff assistance; annual report.**

(a) The salary of each commissioner shall be the same as that fixed from time to time for district attorneys except that the commissioner designated as chair shall receive one thousand five hundred dollars ($1,500) additional per annum.

(b) The Commission may appoint an administrator whose duties shall be prescribed by the Commission, and who shall be subject to the State Personnel System. The Commission may appoint ~~a~~ an executive secretary whose duties shall be prescribed by the Commission, and who shall be subject to the State Personnel System and who, upon entering upon his duties, shall give bond in such sum as may be fixed by the ~~Commission, and who may be removed at the will of the~~ Commission. The Commission may also employ such clerical or other assistance as it may deem necessary, and fix the compensation of ~~all persons so employed, such compensation to~~ its staff, except that the salaries of the administrator and the executive secretary shall be

fixed by subsection (b1) of this section. The compensation of Commission staff shall be in keeping with the compensation paid to the persons employed to do similar work in other State departments.

(b1) The salary of the administrator shall be ninety percent (90%) of the salary of a commissioner. The salary of the executive secretary shall be eighty percent (80%) of the salary of a commissioner. In lieu of merit and other incremental raises, the administrator and the executive secretary shall receive longevity pay on the same basis as is provided to other employees subject to the State Personnel Act.

(c) The members of the Commission and its assistants shall be entitled to receive from the State their actual and necessary expenses while traveling on the business of the Commission, but such expenses shall be certified by the person who incurred the same, and shall be approved by the chairman of the Commission before payment is made.

(d) All salaries and expenses of the Commission shall be audited and paid out of the State treasury, in the manner prescribed for similar expenses in other departments or branches of the State service, and to defray such salaries and expenses a sufficient appropriation shall be made under the General Appropriation Act as made to other departments, commissions and agencies of the State government.

(e) The Commission shall publish annually for free distribution a report of the administration of this Article, together with such recommendations as the Commission deems advisable."

(b) Of the funds appropriated from the General Fund to the Department of Commerce, the sum of twenty thousand dollars ($20,000) for the 1998-99 fiscal year shall be used to implement the Industrial Commission staff salaries authorized by subsection (a) of this section.

(c) This section becomes effective November 1, 1998.

Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt

WILDLIFE RESOURCES COMMISSION DIRECTOR SALARY

Section 28.19. (a) G.S. 143-246 reads as rewritten:

"**§ 143-246. Executive Director; appointment, qualifications and duties.**

The North Carolina Wildlife Resources Commission as soon as practicable after its organization shall select and appoint a competent person qualified as hereinafter set forth as Executive Director of the North Carolina Wildlife Resources Commission. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Commission and shall serve as the chief administrative officer of the said Commission. Subject to the approval of the Commission and the Director of the Budget, he is hereby authorized to employ such clerical and other assistants as may be deemed necessary. The person selected as Executive Director shall have had training and experience in conservation, protection and management of wildlife resources. The salary of such Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act, and said~~ Wildlife Resources Commission, in an amount at least equal to the salary of the Director of the Division of Marine Fisheries. The Director shall be allowed actual expenses incurred while on official duties away from resident ~~headquarters; said~~ headquarters. The salary and expenses ~~to~~ of the Director

shall be paid from the Wildlife Resources Fund subject to the provisions of the Executive Budget Act. The term of office of the Executive Director shall be at the pleasure of the Commission. Such bond shall be made as part of the blanket bond of State officers and employees provided for in G.S. 128-8."

(b) This section becomes effective November 1, 1998.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

TRAVEL RATES FOR STATE EMPLOYEES

Section 28.20. (a) G.S. 138-6(a) reads as rewritten:

"(a) Travel on official business by the officers and employees of State departments, institutions and agencies which operate from funds deposited with the State Treasurer shall be reimbursed at the following rates:

(1) For transportation by privately owned automobile, the business standard mileage rate set by the Internal Revenue Service per mile of travel and the actual cost of tolls paid. Any other law which sets a mileage rate by referring to the rate set herein, instead establishes a rate of twenty-five cents (25¢) per mile. No reimbursement shall be made for the use of a personal car in commuting from an employee's home to his duty station in connection with regularly scheduled work hours. Any designation of an employee's home as his duty station by a department head shall require prior approval by the Office of State Budget and Management on an annual basis.

(2) For bus, railroad, Pullman, or other conveyance, actual fare.

(3) For expenses incurred for subsistence, payment of ~~seventy-one dollars ($71.00)~~ eighty-one dollars ($81.00) per day when traveling in-state or ~~eighty-three dollars ($83.00)~~ ninety-three dollars ($93.00) per day when traveling out-of-state. Payment of sales tax, lodging tax, local tax, or service fees applied to the cost of lodging are to be paid in addition to the daily subsistence amount. The employee may exceed the part of the ceiling allocated for lodging without approval for overexpenditure provided that the total lodging and food reimbursement does not exceed the maximum provided by this subdivision. When travel involves less than a full day (24-hour period), a reasonable prorated amount shall be paid in accordance with regulations and criteria which shall be promulgated and published by the Director of the Budget. Reimbursement to State employees for lunches eaten while on official business may be made only in the following circumstances:

a. When an overnight stay is required reimbursement is allowed while an employee is in travel status;

b. When the cost of the lunch is included as part of a registration fee for a formal congress, conference, assembly, or convocation, by whatever name called. Such assembly must

involve the active participation of persons other than the employees of a single State department, institution, or agency and must be necessary for conducting official State business; or

c. When the State employee is a member ~~of~~ of, or providing staff assistance to, a State board, commission, committee, or council which operates from funds deposited with the State Treasurer, and the lunch is preplanned as part of the meeting for the entire board, commission, committee, or council.

(4) For convention registration fees not to exceed ~~thirty dollars ($30.00) per convention.~~ the actual amount expended as shown by a valid receipt or invoice."

(b) The Office of State Budget and Management shall revise the schedule used for reporting allowable subsistence expenses incurred by State officers and employees while traveling on State business by allocating to lodging the increase provided in subsection (a) of this section.

(c) This section becomes effective January 1, 1999, and applies to travel on or after that date.

Requested by: Senators Warren, Kerr, Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Daughtry

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 28.21. (a) G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred forty-one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 1997,~~ July 1, 1998, receive a pension of ~~one hundred forty-one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred forty-~~

~~one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, and because of such annexation is unable to perform as a fireman of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

(b) This section becomes effective July 1, 1998.

Requested by: Senators Winner, Lee, Dalton, Purcell, Plyler, Perdue, Odom, Representatives Arnold, Preston, Oldham, Holmes, Esposito, Creech, Crawford

PERMIT RETIRED TEACHERS TO WORK AS SUBSTITUTE TEACHERS IN PUBLIC SCHOOLS OR AS TEACHERS IN LOW-PERFORMING PUBLIC SCHOOLS WITHOUT LOSING RETIREMENT BENEFITS

Section 28.24. (a) G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%)

of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S 135-3(8)c., who has been retired at least 12 months and has not been employed in any capacity, except as a substitute teacher, with a public school for at least 12 months, shall not include earnings while:

1. The beneficiary is employed to teach on a substitute or interim basis, and not on a permanent basis, in a public school;
2. The beneficiary is employed to teach in the teacher's area of certification in a low-performing school. As used in this sub-subdivision, a low-performing school is a public elementary or middle school at which forty-eight percent (48%) or more of the students were below grade level during either of the prior two school years or a public high school identified by the State Board of Education as low-performing. If the designation of low-performing is removed while the beneficiary is employed to teach at the school, the provisions of this sub-subdivision apply for the next two school years after the designation is removed; or
3. The beneficiary is employed to teach in a public school in the teacher's area of certification in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification.

The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a probationary teacher as the term is defined under the provisions of G.S. 115C-325(a)(5).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

(b) G.S. 115C-316 is amended by adding a new subsection to read:

"(d) A local board of education may pay a retired teacher, as that term is defined in G.S. 115C-325(a)(5a) no more than the employee would have received on the teacher salary schedule, excluding longevity, had the employee not retired.

(c) G.S. 115C-325(a) reads as rewritten:

"(a) Definition of Terms. – As used in this section unless the context requires otherwise:

(1) Repealed by Session Laws 1997-221, s. 13(a).

(1a) "Career employee" as used in this section means:

a. An employee who has obtained career status with that local board as a teacher as provided in G.S. 115C-325(c);

b. An employee who has obtained career status with that local board in an administrative position as provided in G.S. 115C-325(d)(2);

c. A probationary teacher during the term of the contract as provided in G.S. 115C-325(m); and

d. A school administrator during the term of a school administrator contract as provided in G.S. 115C-287.1(c).

(1b) "Career school administrator" means a school administrator who has obtained career status in an administrative position as provided in G.S. 115C-325(d)(2).

(1c) "Career teacher" means a teacher who has obtained career status as provided in G.S. 115C-325(c).

(1d) "Case manager" means a person selected under G.S. 115C-325(h)(7).

(2) Repealed by Session Laws 1997, c. 221, s. 13(a).

(3) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(4) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator. The word "demote" does not include: (i) a suspension without pay pursuant to G.S. 115C-325(f)(1); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

(4a) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325(f)(2).

(5) "Probationary teacher" means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent,

who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.

(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least 12 months, has not been employed in any capacity, other than as a substitute teacher, with a local board of education for at least 12 months, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to teach as provided in G.S. 135-3(8)c1. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status."

~~(5a)~~(5b) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program as provided in G.S. 115C-287.1(a)(3).

(6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the Department of Public Instruction; whose major responsibility is to teach or directly supervises teaching or who is classified by the State Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position.

(7) Redesignated as (a)(5a).

(8) "Year" for purposes of computing time as a probationary teacher shall be not less than 120 workdays performed as a probationary teacher in a full-time permanent position in a school year."

(d) This section becomes effective January 1, 1999, and expires June 30, 2003.

Requested by: Senators Cooper, Rand, Plyler, Perdue, Odom, Lee, Representatives Holmes, Esposito, Creech, Crawford

SALARY CONTINUATION BENEFITS FOR UNIVERSITY SYSTEM CAMPUS LAW ENFORCEMENT OFFICERS

Section 28.25. (a) G.S. 143-166.13(a) is amended by adding a new subdivision to read:

"(19) Sworn State Law-Enforcement Officers with the power of arrest, University System."

(b) This section becomes effective July 1, 1998, and applies to incapacities that occur on or after that date.

Requested by: Senators Jenkins, Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

ALLOW MEMBERS OF THE LEGISLATIVE, LOCAL GOVERNMENTAL EMPLOYEES', AND TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEMS TO CHANGE THEIR DESIGNATED BENEFICIARIES AFTER RETIREMENT HAS BECOME EFFECTIVE UNDER CERTAIN CIRCUMSTANCES

Section 28.26. (a) G.S. 120-4.26 reads as rewritten:

"**§ 120-4.26. Benefit payment options.**

Any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. No election may be made after the first payment becomes due, or the first retirement check cashed, nor may an election be revoked or a nomination changed. The election of Option 2 or Option 3 or the nomination of the person thereunder shall be revoked if the person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. The election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options 2 or 3 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent to the retirement allowance in effect immediately prior to the effective date of the new option.

Option 1. For Members Retiring Prior to July 1, 1993. – If a member dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one-one hundred twentieth (1/120) for each month for which he has received a retirement allowance payment, shall be paid to his legal representative or to the person he nominates by written designation acknowledged and filed with the Board of Trustees;

Option 2. – Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement. If the person selected is other than his spouse, the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. – Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement."

(b) G.S. 128-27(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of Option two or Option three or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options two, three, or six and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.

(b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his

retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option four. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Table II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option five. For Members Retiring prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option two or Option three, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option six. A member may elect either Option two or Option three with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

(c) G.S. 135-5(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. The election of Option 2 or Option 3 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. <u>Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected</u>

option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options 2, 3, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

(b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement

allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

(d) This section is effective when it becomes law, and its provisions shall apply to all persons who are retired from the Legislative Retirement System, the Local Governmental Employees' Retirement System, or the Teachers' and State Employees' Retirement System on that date or who retire from any of those retirement systems after that date. In the case of retired members who designated a spouse as survivor under one of the options specified in this act, whose designated spouses predeceased them, and who remarried prior to the effective date of this act, such members may nominate the new spouse to receive the survivor retirement benefits in accordance with this act, provided that such nomination is made within 90 days of the effective date of this section.

Requested by: Senators Jenkins, Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Barbee

INCREASE RETIREE DEATH BENEFIT

Section 28.27. (a) G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter called the 'Plan') which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3),(4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars ($25,000) and to a maximum of fifty thousand dollars ($50,000). Such death benefit shall be payable apart and separate

from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After December 31, 1968 and after he has attained age 70; or
(2) After December 31, 1969 and after he has attained age 69; or
(3) After December 31, 1970 and after he has attained age 68; or
(4) After December 31, 1971 and after he has attained age 67; or
(5) After December 31, 1972 and after he has attained age 66; or
(6) After December 31, 1973 and after he has attained age 65; or
(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
(2) Last day of actual service shall be:
    a. When employment has been terminated, the last day the member actually worked.

b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).

(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars ($25,000) nor to exceed fifty thousand dollars ($50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, <u>but before January 1, 1999,</u> there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased

retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(b) G.S. 135-64(g) reads as rewritten:

"(g) Upon the death of a retired member on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(c) G.S. 135-64 is amended by adding a new subsection to read:

"(h) Upon the death of a retired member on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by

the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(d) G.S. 120-4.27 reads as rewritten:

"**§ 120-4.27. Death benefit.**

The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to the deceased member's highest annual salary, to a maximum of fifteen thousand dollars ($15,000). For purposes of this death benefit 'in service' means currently serving as a member of the North Carolina General Assembly.

The death benefit provided by this section shall be designated a group life insurance benefit payable under an employee welfare benefit plan that is separate and apart from the Retirement System but under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit in the form of group life insurance either by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in the State of North Carolina for the purpose of insuring the lives of qualified members in service, or by establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after January 1, 1999, there

shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(e) G.S. 128-27(l2) reads as rewritten:

"(l2) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(f) G.S. 128-27 is amended by adding a new subsection to read:

"(l3) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment

in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(g) This section becomes effective January 1, 1999.

Requested by: Senators Plyler, Perdue, Odom, Gulley, Representatives Holmes, Esposito, Creech, Crawford

RIF ABUSES PROHIBITED

Section 28.28. (a) G.S. 143-27.2 reads as rewritten:

"**§ 143-27.2. Discontinued service retirement allowance and severance wages for certain State employees.**

(a) When the Director of the Budget determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget, he shall pay either a discontinued service retirement allowance or severance wages to any affected State employee, provided reemployment is not available. As used in this section, "economies in the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. In determining whether to pay a discontinued service retirement allowance or severance wages, the Director of the Budget shall consider the recommendation of the department head involved and any recommendation of the State Personnel Director. Severance wages shall not be paid to an employee who chooses a discontinued service retirement. Severance wages shall not be subject to employer or employee retirement contributions. Severance wages shall be paid according to the policies adopted by the State Personnel Commission.

Notwithstanding any other provisions of the State's retirement laws, any employee of the State who is a member of the Teachers' and State Employees' Retirement System or the Law-Enforcement Officers' Retirement System and who has his job involuntarily terminated as a result of economies in the State Budget may be entitled to a discontinued service retirement allowance, subject to the approval of the employing agency and the availability of agency funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is approved, the employing agency shall make a lump sum payment to the Administrator of the State Retirement Systems equal to the actuarial present value of the additional liabilities imposed upon the System, to be determined by the System's consulting actuary, as a result of the discontinued service retirement, plus an administrative fee to be determined by the Administrator.

The salary used to determine severance wages under this section is the last annual salary except that if the employee was promoted within the previous 12 months, the last annual salary is that annual salary prior to the promotion. If the annual salary prior to the promotion is used, it shall be adjusted to account for any across-the-board legislative salary increases. Excluded from any calculation are any benefits such as, but not limited to, overtime pay, shift pay, holiday premium, or longevity pay.

(b) Any employee separated from State government and paid severance wages under this section shall not be employed under a contractual arrangement by any State agency, other than the constituent institutions of The University of North Carolina and the constituent institutions of the North Carolina Community College System, until 12 months have elapsed since the separation. This subsection does not affect any reduction in force rights that the employee may have."

(b) This section is effective when it becomes law.

Requested by: Senator Odom, Representatives Russell, Daughtry

CLINICAL TRIALS COVERAGE

Section 28.29. (a) G.S. 135-40.1 is amended by adding a new subdivision to read:

"(1b) Clinical Trials. – Patient research studies designed to evaluate new treatments, including prescription drugs. Regardless of the type of trial phases covered by the Plan, all covered trials must involve the treatment of life-threatening medical conditions, must be clearly superior to available noninvestigational treatment alternatives, and must have clinical and preclinical data that shows the trials will be at least as effective as noninvestigational alternatives. Trials must also involve determinations by treating physicians, relevant scientific data, and opinions of experts in relevant fields of medicine. Covered trials must be approved by the National Institutes of Health, a National Institutes of Health cooperative group or center, the U. S. Food and Drug Administration, the U.S. Department of Defense, or the U.S. Department of Veterans Affairs. The Plan may also cover clinical trials sponsored by other entities. Trials must also be approved by applicable qualified institutional review boards. All covered trials must be conducted in and by facilities and personnel that maintain a high level of expertise because of their training, experience, and volume of patients. To be covered by the Plan, patients participating in clinical trials must meet substantially all protocol requirements of the trials and exercise informed consent in the trials. Only medically necessary costs of health care services involved in treatments provided to patients for the purpose of the trials are covered by the Plan to the extent that such costs are not customarily funded by national agencies, commercial manufacturers, distributors, or other such providers. Clinical trial costs not covered by the Plan include, but are not limited to, the costs of services that are not health care services and costs

associated with managing research in the trials. The Plan shall not exclude benefits for covered clinical trials if the proposed treatment is the only appropriate protocol for the condition being treated."

(b) G.S. 135-40.1(7a)d. reads as rewritten:

"d. Is provided as part of a research or phase I clinical ~~trial;~~ or phase II clinical trial not approved by the Plan;"

(c) G.S. 135-40.7(19) reads as rewritten:

"(19) Any service, treatment, facility, equipment, drug, supply, or procedure that is experimental or investigational as defined in G.S. ~~1350-40.1(7.1)~~ 135-40.1(7a). Clinical trial phases III and IV are covered by the Plan as is clinical trial phase II when approved by the Plan."

(d) G.S. 135-40.6A(a) is amended by adding a new subdivision to read:

"(9) Phase II clinical trials in accordance with G.S. 135-40.1(1b). Decisions pursuant to this section must be rendered by the Plan within 30 days after receipt of all medical documentation requested by the Plan."

(e) The Teachers' and State Employees' Comprehensive Major Medical Plan shall notify all employees of the Plan's coverage for clinical trials as soon as possible.

(f) This section becomes effective January 1, 1999.

PART XXIX. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 29. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund

	1998-99
ADMINISTRATION	
Reserve for Land Acquisitions-Government Complex	$500,000
AGRICULTURE AND CONSUMER SERVICES	
Conservation Education Center on State Fairgrounds: Design	$500,000
Multi-purpose Building on State Fairgrounds: Site Development	$3,000,000
Cattle and Livestock Exposition Center Construction in Iredell County	$6,000,000
Development of Eastern Agricultural Center	

(Parking Paving, Covered Walkways)	$1,775,000
Center for Environmental Farming at Cherry Farm in Goldsboro/Planning & Development	$600,000
Southeastern Farmers Market & Agricultural Center Continued Development	$500,000
Umstead Farm Unit	
Authorizes the Department to use timber receipts for fiscal year 1998-99 for the construction of nutrition and animal care facilities at the Umstead Farm Unit in Butner	
Total Requirements	$533,000
Less Receipts	($533,000)
Appropriation	0

COMMUNITY COLLEGES

Center Applied Textile Technology- Lab and Administration Building	$2,000,000
Yadkin County Satellite – Surry Community College	$1,500,000
Franklin County Satellite - Vance/Granville Community College	$1,000,000
Blue Ridge Community College	$2,000,000
Fayetteville Tech Community College- Model Early Childhood Education Center	$3,000,000

CORRECTION

Central Prison-Acute Care Hospital-90 beds-Design	$2,500,000

CULTURAL RESOURCES

Museum of Art Design Funds for expansion and renovation	$2,400,000
Museum of the Albemarle: Site Development and Construction	$7,000,000

HEALTH AND HUMAN SERVICES

Eastern N.C. School for the Deaf/Construct Independent Living Complex	$1,040,000

Cherry Hospital/Children & Youth Facility	$5,000,000
Construct New Whitaker School-Planning	$250,000
Eastern Voc. Rehab. Facility in Goldsboro for Purchase of Building	$300,000
Dix Hospital Psychiatric Hospital Planning	$2,000,000

ENVIRONMENT AND NATURAL RESOURCES

Water Resources Development Projects	
North Channel Maintenance Dredging & Disposal Site	$1,200,000
State-Local Projects	$600,000
Aquatic Plant Control Statewide & Lake Gaston	$150,000
Construction of County Forestry Headquarters, Moore & Sampson Counties	$700,000
Roanoke Island Aquarium: Construction Cost Supplement	$2,000,000
Central Piedmont Aquarium: Planning	$500,000
Land Acquisition: Jocassee Lake-Transylvania County	$5,000,000
Detoxification of PCB Landfill in Warren County	$2,000,000
Museum of Natural Science - Exhibits	$1,000,000

COMMERCE

Wanchese Seafood Industrial Park: Construction of new meeting and office space and renovation of existing meeting and office facilities	$250,000

STATE PORTS

Reserve for Continued Development of Morehead and Wilmington ports	$5,750,000

UNIVERSITY OF NORTH CAROLINA-BOARD OF GOVERNORS

Technology Infrastructure-Multiphase Systemwide Upgrade Project	$10,875,000

Appalachian State University:	
Addition/Renovation of Rankin Science Building	$6,276,500
East Carolina University	
Science Lab & Technology Building-	
Site Development	$3,200,000
Multipurpose Center-Matching Funds	$2,000,000
Elizabeth City State University	
Fine Arts Building-Complete Construction	$948,600
Fayetteville State University	
Fine Arts Building-Site Development	$1,000,000
North Carolina A & T State University	
Campus Security Improvements	$1,450,000
Gen. Classroom/Lab Building/Complex #1	$3,000,000
North Carolina Central University	
Health and Safety Repairs and Renovations	$2,000,000
North Carolina School of the Arts	
Basic Education Complex Planning	$800,000
Filmmaking Office/Classroom Post Production Complex	$300,000
North Carolina State University	
Toxicology Building-Construction	$13,806,100
Advanced Planning-Engineering Instructional Facility	$5,000,000
Upfit and Equip CMAST Building	$2,400,000
Undergraduate Teaching Laboratories Planning	$4,500,000
College of Veterinary Medicine Planning for Addition	$2,000,000
Polk House Funds to Relocate	$200,000
UNC-Asheville	
Justice Center Gymnasium Partial Renovation	$500,000
Highsmith Center Renovation & Addition	$1,000,000
UNC-Chapel Hill	
R.B. House Library Renovation	$9,332,700
Paul Green Theater Completion	$1,000,000
Medical Biomolecular Research Complex	
Matching Funds to Begin Construction	$6,000,000
Memorial Hall-Planning for Additional Renovations	$1,000,000

UNC-Charlotte	
Academic Facilities-Humanities-Site Development/Construction	$12,000,000
UNC-Greensboro	
Science Instructional Bldg.- Site Development	$3,850,000
UNC-Pembroke	
Regional Center for Econ., Prof. and Comm. Dev.	$700,000
UNC-Wilmington	
School of Education Building-Planning	$1,775,000
Western Carolina University	
Fine Arts Center - Site Development	$2,500,000
Winston-Salem State University	
Computer Science Facility - Planning	$700,000
UNC-General Administration	
Reserve for Land Acquisition-all campuses	$4,750,000
Institute of Government Knapp Building Addition and Renovation	$6,570,600
UNC-Public Television	
Advanced Planning, conversion to Digital TV	$1,100,000
GRAND TOTAL- CAPITAL IMPROVEMENTS	$174,549,500

Requested by: Senators Odom, Plyler, Perdue, Representatives Russell, G. Wilson

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Section 29.1. Of the funds in the Reserve for Repairs and Renovations for the 1998-99 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%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the

Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

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

Requested by: Senators Lee, Winner, Representatives Russell, G. Wilson

UNC REPAIRS AND RENOVATIONS

Section 29.2. The Board of Governors of The University of North Carolina may allocate up to ten million dollars ($10,000,000) of its funding from the Reserve for Repairs and Renovations for improvements to the technology infrastructure on the campuses of the constituent institutions. Such improvements to the technology infrastructure shall include repairs to existing systems, improvements to improve the use and suitability of existing space for technology, and other improvements to utilities infrastructure that will allow the increased use of advanced technology for educational and research purposes.

These funds shall be used in accordance with G.S. 143-15.3A.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

HISTORIC SITES REPAIRS AND RENOVATIONS FUNDS

Section 29.3. (a) Funds allocated in this act to the Office of State Budget and Management for the Repairs and Renovations Fund may be used to make needed repairs and renovations at the State Historic Sites.

(b) There is established the Historic Sites Repairs and Renovations Review Committee. The Committee shall consist of the following members: the three cochairs of the Senate Appropriations and Base Budget Committee and the four cochairs of the House of Representatives Appropriations Committee. The Office of State Budget and Management shall submit its proposal for the use of funds from the Repairs and Renovations Fund for Historic Sites to the Committee before submitting the proposal to the Joint Legislative Commission on Governmental Operations in accordance with this act.

Requested by: Senators Warren, Plyler, Odom, Perdue, Representatives Russell, G. Wilson

STATE CAPITOL AND VISITOR'S CENTER SITE

Section 29.4. The new State Capitol and Visitor Center being planned for construction shall be located at the site bounded by Blount Street, Wilmington Street, Edenton Street, and Jones Street in Raleigh, unless that construction site is unacceptable for structural reasons.

Requested by: Senator Martin of Pitt, Representatives Russell, G. Wilson

TIMBER RECEIPTS FOR CAPITAL CONSTRUCTION

Section 29.5. The sum of five hundred thirty-three thousand dollars ($533,000) shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account, established pursuant to G.S. 146-30, to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year for construction of nutrition and animal care facilities at the Umstead Farm Unit in Butner.

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

FUNDS FOR DOROTHEA DIX HOSPITAL DESIGN

Section 29.5B. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars ($2,000,000) for the 1998-99 fiscal year shall be allocated for planning and general design of a new Dorothea Dix Hospital and to study the costs of construction and operation of new facilities as compared to redesign and long-term operation of other existing State psychiatric hospitals. The general design and planning and the study shall be done in coordination with the Study of the State Psychiatric Hospitals/Area Mental Health Programs. Actual design of a new Dorothea Dix Hospital with respect to the number and type of beds is subject to completion of the Study of the State Psychiatric Hospitals/Area Mental Health Programs. The Department shall make an interim progress report on the status of the general design and the study to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than May 1, 1999.

Requested by: Senators Martin of Guilford, Cooper, Dannelly, Phillips, Purcell, Representatives Gardner, Cansler, Clary, Howard

WHITAKER SCHOOL PLANNING FUNDS

Section 29.5C. (a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred fifty thousand dollars ($250,000) for the 1998-99 fiscal year shall be used to plan and design a replacement facility for the Whitaker School reeducation facility for behaviorally and emotionally disturbed youth. These funds shall be used to plan and design a facility with a bed capacity of up to 33 beds.

(b) The Department of Health and Human Services shall provide the results of the planning and design including estimated costs to build and operate the facility to the House Appropriations Subcommittee on Human Resources and the Senate Appropriations Committee on Human Resources on or before May 1, 1999.

Requested by: Senator Jenkins, Representatives Russell, G. Wilson

SOUTH BROAD PARK LAKE AND WATER CONSERVATION FUND CONVERSION

Section 29.6. Lands purchased by the State to establish a new State park in Transylvania County shall be used as replacement property to fulfill the requirements of the federal Land and Water Conservation Fund for the conversion of land within South Broad Park in Brevard to a use other than outdoor recreation. Except for the tract currently used for an arboretum, Transylvania County may use for library purposes lands in South Broad Park converted under this section.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 29.8. Section 5(a) of S.L. 1998-166 reads as rewritten:

"(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

	Name of Project	
1.	Morehead City Harbor Turning Basin	$ 2,000,000
2.	Wilmington Harbor Maintenance Dredging	200,000
3.	Wilmington Harbor Long-Term Disposal	1,400,000
4.	Beaufort Harbor Maintenance Dredging	80,000
5.	Manteo Shallowbag Bay Maintenance Dredging	200,000
6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000
13.	North Channel Maintenance Dredging and Disposal Site	1,200,000
14.	Aquatic Plant Control Statewide and Lake Gaston	150,000
15.	B. Everett Jordan Lake Water Supply	110,000
16.	State-Local Projects	
a.	Frisco Ditch Snagging (Dare County)	3,500
b.	Moccasin Creek Restoration (Johnston County)	78,800
c.	Avery Pond Jetties and Dredging (Town of Kitty Hawk)	140,800
d.	High Rock Lake Dredging Feasibility Study	20,000
e.	Northwest Creek Dredging	100,000
f.	Other Stream Restoration Projects	256,900
	Subtotal	600,000
	Total	~~$ 5,240,000~~ $7,300,000."

Requested by: Senator Ballance

WARREN COUNTY PCB LANDFILL DETOXIFICATION FUNDS

Section 29.9. (a) The Director of the Budget shall place funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99

fiscal year for the detoxification of the Warren County polychlorinated biphenyl (PCB) landfill and any available federal funds into a nonreverting reserve to be used by the Department for the detoxification of a landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials. The detoxification treatment standards for residual concentrations of contaminants remaining in the soil shall be 200 parts per billion for PCBs and 200 parts per trillion toxicity equivalent concentration (TEQ) for dioxins/furans. Based catalyzed decomposition (BCD) technology shall be used to detoxify the landfill in accordance with a plan approved by the Department. The Department shall oversee the detoxification of this landfill.

(b) Any funds remaining in the reserve established under subsection (a) of this section at the conclusion of the detoxification of the landfill shall remain in a nonreverting reserve and shall be transferred to the Department of Commerce to be used for economic development in Warren County or Warren County's infrastructure needs, or both.

Requested by: Senator Perdue, Representatives Holmes, Esposito, Creech, Crawford

GLOBAL TRANSPARK FUNDS

Section 29.10. Notwithstanding any other provision of law, the Director of the Budget may identify resources of up to seven million three hundred twenty-five thousand dollars ($7,325,000) from the General Fund for the 1998-99 fiscal year to match federal funds available to the Global TransPark for development and to comply with State and federal wetlands mitigation rules.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

Section 29.11. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

(1) That the project was designed and bid within the scope as authorized by the General Assembly;

(2) That the funds to supplement the project are the same source as authorized for the original project;

(3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and

(4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senator Jordan, Representatives Russell, G. Wilson

RELOCATE GLOBAL TRANSPARK AUTHORITY

Section 29.12. From funds available to the North Carolina Global TransPark Authority, the Authority shall relocate its administrative offices from Raleigh to the site of the TransPark in Kinston. No State funds shall be spent to lease office space in Raleigh after June 30, 1999. At the request of the Authority, the State Property Office shall assist the Authority in locating State uses for that space, if practical and economical.

The Authority may maintain a contact person housed in the offices of the Department of Transportation in Raleigh. The Authority may also maintain personnel housed in the offices of the Department of Commerce in Raleigh to coordinate the activities of the Authority and the Department, to act as a liaison between the Authority and the Department, and to assist the Department in the implementing Section 15.2 of this act.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford, Russell, G. Wilson

UNC AGRICULTURAL RESEARCH FACILITIES

Section 29.14. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for land acquisition, up to one million five hundred thousand dollars ($1,500,000) may be allocated for development of replacement facilities from the north Reedy Creek farm site in Wake County and associated expenses of moving agricultural research facilities to a newly acquired site in Wake County.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

AQUARIUM CONSTRUCTION FUNDS

Section 29.17. At such time as sufficient lapsed salary funds have accrued to the General Fund for the 1998-99 fiscal year, the Director of the Budget shall certify that the sum of thirty million dollars ($30,000,000) is available to implement this section. The Director of the Budget shall then allocate these funds to the Department of Environment and Natural Resources for the renovation and construction of the State aquariums at Pine Knoll Shores and Fort Fisher.

PART XXIXA. TAX RELIEF

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

REPEAL STATE SALES TAX ON FOOD

Section 29A.1. (a) G.S. 105-164.4(a)(5) is repealed.

(b) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.13B. Food exempt from tax.**

The taxes imposed by this Article do not apply to food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51."

(c) In order to pay for the additional administrative costs of implementing this section, including printing, postage, and similar costs, the Secretary of Revenue may draw up to one hundred seventy-four thousand dollars ($174,000) from collections under Article 5 of Chapter 105 of the General Statutes for the 1998-99 fiscal year.

(d) This section becomes effective May 1, 1999, and applies to sales made on or after that date.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

ELIMINATE NORTH CAROLINA INHERITANCE TAX

Section 29A.2. (a) Article 1 of Chapter 105 of the General Statutes is repealed.

(b) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Estate Taxes.

"**§ 105-32.1. Definitions.**

The following definitions apply in this Article:

(1) Code. – Defined in G.S. 105-228.90.

(2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.

(3) Secretary. – Defined in G.S. 105-228.90.

"**§ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.**

(a) Tax. – An estate tax is imposed on the estate of a decedent when a federal estate tax is imposed on the estate under section 2001 of the Code and any of the following apply:

(1) The decedent was a resident of this State at death.

(2) The decedent was not a resident of this State at death and owned any of the following:

a. Real property or tangible personal property that is located in this State.

b. Intangible personal property that has a tax situs in this State.

(b) Amount. – The amount of the estate tax imposed by this section is the maximum credit for state death taxes allowed under section 2011 of the Code. If any property in the estate is located in a state other than North Carolina, the amount of tax payable is the North Carolina percentage of the credit.

If the decedent was a resident of this State at death, the North Carolina percentage is the net value of the estate that does not have a tax situs in another state, divided by the

net value of all property in the estate. If the decedent was not a resident of this State at death, the North Carolina percentage is the net value of real property that is located in North Carolina plus the net value of any personal property that has a tax situs in North Carolina, divided by the net value of all property in the estate, unless the decedent's state of residence uses a different formula to determine that state's percentage. In that circumstance, the North Carolina percentage is the amount determined by the formula used by the decedent's state of residence.

The net value of property that is located in or has a tax situs in this State is its gross value reduced by any debt secured by that property. The net value of all the property in the estate is its gross value reduced by any debts and deductions of the estate.

"**§ 105-32.3. Liability for estate tax.**

(a) Primary. – The tax imposed by this Article is payable from the assets of the estate. A person who receives property from an estate is liable for the amount of estate tax attributable to that property.

(b) Personal Representative. – The personal representative of an estate is liable for an estate tax that is not paid within two years after it was due. This liability is limited to the value of the assets of the estate that were under the control of the personal representative. The amount for which the personal representative is liable may be recovered from the personal representative or from the surety on any bond filed by the personal representative under Article 8 of Chapter 28A of the General Statutes.

(c) Clerk of Court. – A clerk of court who allows a personal representative to make a final settlement of an estate without presenting one of the following is liable on the clerk's bond for any estate tax due:

(1) An affirmation by the personal representative certifying that no tax is due on the estate because this Article does not require an estate tax return to be filed for that estate.

(2) A certificate issued by the Secretary stating that the tax liability of the estate has been satisfied.

"**§ 105-32.4. Payment of estate tax.**

(a) Due Date. – The estate tax imposed by this Article is due when an estate tax return is due. An estate tax return is due on the date a federal estate tax return is due.

(b) Filing Return. – An estate tax return must be filed under this Article if a federal estate tax return is required. The return must be filed by the personal representative of the estate on a form provided by the Secretary.

(c) Extension. – An extension of time to file a federal estate tax return is an automatic extension of the time to file an estate tax return under this Article. The Secretary may, in accordance with G.S. 105-263, extend the time for paying the estate tax imposed by this Article or for filing an estate tax return.

(d) Obtaining Amount Due. – The personal representative of an estate may sell assets in the estate to obtain money to pay the tax imposed by this Article.

(e) Administration. – Article 9 of this Chapter applies to this Article.

"**§ 105-32.5. Making installment payments of tax due when federal estate tax is payable in installments.**

A personal representative who elects under section 6166 of the Code to make installment payments of federal estate tax may elect to make installment payments of the tax imposed by this Article. An election under this section extends the time for payment of the tax due in accordance with the extension elected under section 6166 of the Code. Payments of tax are due under this section at the same time and in the same proportion to the total amount of tax due as payments of federal estate tax under section 6166 of the Code. Acceleration of payments under section 6166 of the Code accelerates the payments due under this section.

"**§ 105-32.6. Estate tax is a lien on real property in the estate.**

The tax imposed by this Article on an estate is a lien on the real property in the estate and on the proceeds of the sale of the real property in the estate. The lien is extinguished when one of the following occurs:

(1) The personal representative certifies to the clerk of court that no tax is due on the estate because this Article does not require an estate tax return to be filed for that estate.

(2) The Secretary issues a certificate stating that the tax liability of the estate has been satisfied.

(3) For specific real property, when the Secretary issues a tax waiver for that property.

(4) Ten years have elapsed since the date of the decedent's death.

"**§ 105-32.7. Generation-skipping transfer tax.**

(a) Tax. – A tax is imposed on a generation-skipping transfer that is subject to the tax imposed by Chapter 13 of Subtitle B of the Code when any of the following apply:

(1) The original transferor is a resident of this State at the date of the original transfer.

(2) The original transferor is not a resident of this State at the date of the original transfer and the transfer includes any of the following:

a. Real or tangible personal property that is located in this State.

b. Intangible personal property that has a tax situs in this State.

(b) Amount. – The amount of the tax imposed by this section is the maximum credit for state generation-skipping transfer taxes allowed under section 2604 of the Code. If property in the transfer is located in a state other than North Carolina, the amount of tax payable is the North Carolina percentage of the credit.

If the original transferor was a resident of this State at the date of the original transfer, the North Carolina percentage is the net value of the property transferred that does not have a tax situs in another state, divided by the net value of all property transferred. If the original transferor was not a resident of this State at the date of the original transfer, the North Carolina percentage is the net value of real property that is located in North Carolina plus the net value of any personal property that has a tax situs in North Carolina, divided by the net value of all property transferred, unless the original transferor's state of residence uses a different formula to determine that state's percentage. In that circumstance, the North Carolina percentage is the amount determined by the formula used by the original transferor's state of residence.

The net value of property that is located in or has a tax situs in this State is its gross value reduced by any debt secured by that property. The net value of all the property in a transfer is its gross value reduced by any debts secured by the property.

(c) Payment. – The tax imposed by this section is due when a return is due. A return is due the same date as the federal return for payment of the federal generation-skipping transfer tax. The tax is payable by the person who is liable for the federal generation-skipping transfer tax.

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the amount of the maximum state death tax credit allowed an estate under section 6166 of the Code, the personal representative must, within two years after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within two years after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must assess and collect any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

(c) G.S. 105-134.6(d)(1) reads as rewritten:

"(1) The amount of inheritance or estate tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, may be deducted in the year the item of income is included. The amount of inheritance or estate tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance or estate tax paid under Article 1 or 1A of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of ~~inheritance~~ the tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly

paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance or estate tax return that the beneficiary needs to compute the deduction allowed by this subdivision."

(d) This section becomes effective January 1, 1999, and applies to the estates of decedents dying on or after that date.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

SAVINGS CLAUSE

Section 29A.3. This Part does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that was available under the amended or repealed statute before the effective date of its amendment or repeal.

Requested by: Senators Hoyle, Kerr, Winner, Representatives Gray, Brawley, Dickson, C. Wilson, Shubert

SALES TAX REFUNDS FOR SCHOOLS

Section 29A.4. (a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use ~~tax~~ taxes paid by it under this Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

(1) A county.

(2) A city as defined in G.S. 160A-1.

(2a) A consolidated city-county as defined in G.S. 160B-2.

(2b) A local school administrative unit.

(3) A metropolitan sewerage district or a metropolitan water district in this State.

(4) A water and sewer authority created under Chapter 162A of the General Statutes.

(5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
(6) A sanitary district.
(7) A regional solid waste management authority created pursuant to G.S. 153A-421.
(8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
(9) A district health department.
(10) A regional council of governments created pursuant to G.S. 160A-470.
(11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
(12) A regional planning commission created pursuant to G.S. 153A-391.
(13) A regional sports authority created pursuant to G.S. 160A-479.
(14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.
(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.
(15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes.
(16) A local airport authority that was created pursuant to a local act of the General Assembly and has at least one of the following characteristics:
a. It has all of the rights of a municipality.
b. A local act of the General Assembly declares it to be a municipality.
c. A local act of the General Assembly specifically authorizes it to receive a refund under this section.
(17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.
(18) The North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes.
(19) The North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes.
(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.
(21) The University of North Carolina Hospitals at Chapel Hill."

(b) This section is effective when it becomes law and applies to taxes paid on or after July 1, 1998.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

CORPORATE DIVIDEND TECHNICAL CHANGE

Section 29A.5. (a) G.S. 105-130.7(b) reads as rewritten:

"(b) Subsidiary Dividends. – A corporation ~~that, at the close of its taxable year, has its commercial domicile within North Carolina~~ may deduct all dividends received from corporations in which it owns more than fifty percent (50%) of the outstanding voting stock."

(b) This section is effective when it becomes law.

Requested by: Senators Hoyle, Kerr, Cochrane, Representatives Gray, Brawley, Dickson, C. Wilson, Cansler

CREDIT FOR LONG-TERM CARE INSURANCE

Section 29A.6. (a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.28. Credit for premiums paid on long-term care insurance.**

(a) Credit. – An individual is allowed, as a credit against the tax imposed by this Part, an amount equal to fifteen percent (15%) of the premium costs the individual paid during the taxable year on a qualified long-term care insurance contract that offers coverage to either the individual, the individual's spouse, or a dependent for whom the individual was allowed to deduct a personal exemption under section 151(c)(1)(A) of the Code for the taxable year. The credit allowed by this section may not exceed three hundred fifty dollars ($350.00) for each qualified long-term care insurance contract for which a credit is claimed. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims the credit allowed by this subsection shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

(b) No Double Benefit. – No credit is allowed for payments that are deducted from, or not included in, the taxpayer's gross income for the taxable year. If the taxpayer claimed a deduction for health insurance costs of self-employed individuals under section 162(l) of the Code for the taxable year, the amount of credit otherwise allowed the taxpayer under this section is reduced by the applicable percentage provided in section 162(l) of the Code. If the taxpayer claimed a deduction for medical care expenses under section 213 of the Code for the taxable year, the taxpayer is not allowed a credit under this section. A taxpayer who claims the credit allowed by this section must provide any information required by the Secretary to demonstrate that the amount paid for premiums for which the credit is claimed was not excluded from the taxpayer's gross income for the taxable year.

(c) Definition. – For purposes of this section, the term 'qualified long-term care insurance contract' has the same meaning as defined in section 7702B of the Code."

(b) G.S. 105-160.3(b), as amended by S.L. 1998-98, reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

(1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.

(2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.

(3) G.S. 105-151.18. Credit for the disabled.

~~(4) G.S. 105-152.27. Credit for child health insurance.~~

(4) G.S. 105-151.24. Credit for children.

(5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.

(6) G.S. 105-152.27. Credit for child health insurance.

(7) G.S. 105-151.28. Credit for long-term care insurance."

(c) The Legislative Research Commission shall study the effectiveness of the credit enacted by this section. The Department of Revenue shall provide the Commission data on the usage of this credit, including profiles of taxpayer categories using the credit. The Division of Aging, Department of Health and Human Services, shall provide the Commission data on the effect of the credit on the State's Medicaid costs. The Commission shall report its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly.

(d) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 1999, and expires for taxable years beginning on or after January 1, 2004. The remainder of this section is effective when it becomes law. G.S. 105-160.3(b)(7), as enacted by this act, is repealed effective for taxable years beginning on or after January 1, 2004.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

INSURANCE REGULATORY CHARGE

Section 29A.7. (a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 1998 calendar year.

(b) G.S. 58-6-25(a) reads as rewritten:

"(a) Charge Levied. – There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. As used in this section, the term 'insurance company' means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section. The charge levied in this section is in addition to all other fees and taxes. The charge shall be at a percentage rate of the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

(1) ~~additional~~ Additional taxes imposed by G.S. ~~105-228.8,~~ 105-228.8.

(2) The ~~the~~ additional local fire and lightning tax imposed by G.S. ~~105-228.5(d)(4), and any~~ 105-228.5(d)(4).

(3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. ~~97-133(a) shall be disregarded.~~ 97-133(a).

(4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer."

(c) This section becomes effective January 1, 1998.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

PUBLIC UTILITY REGULATORY FEE

Section 29A.8. (a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1998.

(b) This section becomes effective July 1, 1998.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

SECRETARY OF STATE FEES

Section 29A.9. (a) G.S. 10A-7 reads as rewritten:

"**§ 10A-7. Fee with commission application.**

Every applicant for a notarial commission shall pay to this State a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00). Every applicant for recommissioning shall pay to this State a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00)."

(b) G.S. 78A-28 reads as rewritten:

"**§ 78A-28. Provisions applicable to registration generally.**

(a) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered dealer.

(b) Every person filing a registration statement shall pay a filing fee of ~~one hundred dollars ($100.00), plus a registration fee of one-tenth of one percent (1/10 of 1%) of the maximum aggregate offering price at which the registered securities are to be offered in this State, but the registration fee may not be less than twenty-five dollars ($25.00) nor more than one thousand five hundred dollars ($1,500).~~ two thousand dollars ($2,000). When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under G.S. 78A-29, the Administrator shall retain the filing fee. A registration statement relating to ~~securities issued or to be issued by a mutual fund, open-end management company, or unit investment trust or relating to other redeemable securities, to~~ redeemable securities to be offered for a period in excess of one year, other than securities covered under federal law, must be renewed annually by payment of a renewal fee of one hundred dollars ($100.00) and by filing any documents or reports that the Administrator may by rule or order require.

(c) Every registration statement shall specify (i) the amount of securities to be offered in this State; (ii) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed; and (iii) any adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

(d) Any document filed under this Chapter or a predecessor law within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The Administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(f) In the case of a nonissuer distribution, information may not be required under G.S. 78A-27 or 78A-28(i) unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(g) The Administrator may by rule or order require as a condition of registration by qualification or coordination (i) that any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and (ii) that the proceeds from the sale of the registered security in this State be impounded until the issuer receives a specified amount from the sale of the securities either in this State or elsewhere. The Administrator may by rule or order determine the conditions of any escrow or impounding required hereunder, but he may not reject a depository solely because of location in another state.

(h) Except during the time a stop order is in effect under G.S. 78A-29, a registration statement relating to ~~securities issued or to be issued by a mutual fund, open-end management company, or unit investment trust or relating to other redeemable securities, to~~ redeemable securities to be offered for a period in excess of one year, other than securities covered under federal law, expires on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. Every other registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under G.S. 78A-29. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction (i) so long as the registration statement is effective and (ii) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under G.S. 78A-29 (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the Administrator.

(i) So long as a registration statement is effective, the Administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose progress of the offering.

(j) A registration statement filed in accordance with subsection (b) of this section may be amended after its effective date to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the Administrator so orders. Every person filing such an amendment shall pay a ~~registration fee calculated in the manner specified in subsection (b) and a~~ filing fee of fifty dollars ($50.00) with respect to the additional securities proposed to be offered."

(c) G.S. 78A-30 is amended by adding a new subsection to read:

"(g) The Administrator shall charge a fee for a fairness hearing that the Administrator holds under this section. The Administrator shall set the fee based upon the time and expenses incurred by the Administrator. The fee may not be less than five hundred dollars ($500.00), and it may not exceed five thousand dollars ($5,000)."

(d) G.S. 78A-31(a) reads as rewritten:

"(a) The Administrator, by rule or order, may require the filing of any of the following documents with regard to a security covered under section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

(1) Prior to the initial offer of the security in this State, all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, together with a consent to service of process signed by the issuer and with the payment of a notice filing fee of ~~one-tenth of one percent (1/10 of 1%) of the maximum aggregate offering price at which the securities covered under federal law are to be offered in this State, but the notice filing fee shall not be less than twenty-five dollars ($25.00) or more than one thousand six hundred dollars ($1,600).~~ two thousand dollars ($2,000).

(2) After the initial offer of the security in this State, all documents that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, which shall be filed concurrently with the Administrator.

(3) A report of the value of securities covered under federal law that are offered or sold in this State.

(4) A notice filing pursuant to this section shall expire on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. A notice filing of the offer of securities covered under federal law that are to be offered for a period in excess of one year shall be renewed annually by payment of a renewal fee of one hundred dollars ($100.00) and by filing any documents and reports that the Administrator may by rule or order require consistent with this section. The renewal shall be effective upon the expiration of the prior notice period.

(5) A notice filed in accordance with this section may be amended after its effective date to increase the securities specified as proposed to be

offered. An amendment becomes effective upon receipt by the Administrator. Every person submitting an amended notice filing shall pay ~~a fee calculated in the manner specified in subdivision (1) of this subsection and~~ a filing fee of fifty dollars ($50.00) with respect to the additional securities proposed to be offered."

(e) G.S. 147-37 reads as rewritten:

"**§ 147-37. Secretary of State; fees to be collected.**

When no other charge is provided by law, the Secretary of State shall collect such fees for copying any document or record on file in his office which in his discretion bears a reasonable relation to the quantity of copies supplied and the cost of purchasing or leasing and maintaining copying equipment. These fees may be changed from time to time, but a schedule of fees shall be available on request at all times. In addition to copying charges, the Secretary of State shall collect a fee of ~~six dollars and twenty-five cents ($6.25)~~ ten dollars ($10.00) for certifying any document or record on file in his office or for issuing any certificate as to the facts shown by the records on file in his office."

(f) This section becomes effective January 1, 1999.

Requested by: Senators Hoyle, Kerr, Rand, Representatives Gray, Brawley, Dickson, C. Wilson

INCREASE AUTOPSY FEE

Section 29A.10. (a) G.S. 130A-389(a) reads as rewritten:

"(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Copies of the report shall be furnished the authorizing medical examiner, district attorney or superior court judge. A copy of the report shall be furnished to other persons upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a resident of the county in which the death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~four hundred dollars ($400.00).~~ one thousand dollars ($1,000)."

(b) This section becomes effective January 1, 1999, and applies to autopsies or other studies performed on or after that date.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

WATER QUALITY FEES

Section 29A.11. (a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.3D. Fee schedule for water quality permits.**

(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential shall be two thousand eight hundred sixty-five dollars ($2,865).

(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies shall be seven hundred fifteen dollars ($715.00).

(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence shall be fifty dollars ($50.00).

(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater shall be eighty dollars ($80.00).

(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit shall be three hundred dollars ($300.00).

(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land shall be one thousand ninety dollars ($1,090).

(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land shall be six hundred seventy-five dollars ($675.00).

(8) Animal Waste Management Systems. – The annual fee for animal waste management systems shall be as set out in G.S. 143-215.10G.

(b) Application fee for new discharge and nondischarge permits. – An application for a new permit of the type set out in subsection (a) of this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee will be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Application and annual fees for consent special orders. –

(1) Major Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (1) or (6) of subsection (a) of this section, the initial project fee shall be four hundred dollars ($400.00) and the

annual fee shall be five hundred dollars ($500.00). These fees shall be in addition to the annual fee due under subsection (a) of this section.

(2) Minor Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (2) or (7) of subsection (a) of this section, the initial project fee shall be four hundred dollars ($400.00) and the annual fee shall be two hundred fifty dollars ($250.00). These fees shall be in addition to the annual fee due under subsection (a) of this section.

(d) Fee for major permit modifications. – An application for a major modification of a permit of the type set out in subsection (a) of this section shall be accompanied by an application fee equal to thirty percent (30%) of the annual fee applicable to that permit. A major modification of a permit is any modification that would allow an increase in the volume or pollutant load of the discharge or nondischarge or that would result in a significant relocation of the point of discharge, as determined by the Commission. This fee shall be in addition to the fees due under subsections (a) and (c) of this section. If the application is denied, the application fee shall not be refunded.

(e) Other fees under this Article. –

(1) Sewer System Extension Permits. – The application fee for a permit for the construction of a new sewer system or for the extension of an existing sewer system shall be four hundred dollars ($400.00).

(2) State Stormwater Permits. – The application fee for a permit regulating stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 shall be four hundred twenty dollars ($420.00).

(3) Major Water Quality Certifications. – The fee for a water quality certification involving one acre or more of wetland fill or 150 feet or more of stream impact shall be four hundred seventy-five dollars ($475.00).

(4) Minor Water Quality Certifications. – The fee for a water quality certification involving less than one acre of wetland fill or less than 150 feet of stream impact shall be two hundred dollars ($200.00).

(5) Permit for Land Application of Petroleum Contaminated Soils. – The fee for a permit to apply petroleum contaminated soil to land shall be four hundred dollars ($400.00).

(6) Fee Nonrefundable. – If an application for a permit or a certification described in this subsection is denied, the application or certification fee shall not be refunded."

(b) G.S. 143-215.3(a) reads as rewritten:

"(a) Additional Powers. – In addition to the specific powers prescribed elsewhere in this Article, and for the purpose of carrying out its duties, the Commission shall have the power:

(1) To make rules implementing Articles 21, 21A, 21B, or 38 of this Chapter.

(1a) To ~~charge~~ adopt fee schedules and collect fees for the following:

a. Processing of applications for permits or registrations issued under ~~Articles~~ Article 21, other than Parts 1 and 1A, Articles 21A, 21B, and 38 of this Chapter;

b. Administering permits or registrations issued under ~~Articles~~ Article 21, other than Parts 1 and 1A, Articles 21A, 21B, ~~or~~ and 38 of this Chapter including monitoring compliance with the terms of those permits; and

c. Reviewing, processing, and publicizing applications for construction grant awards under the Federal Water Pollution Control Act.

No fee may be charged under this provision, however, to a farmer who submits an application that pertains to his farming operations.

(1b) ~~The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing an application for a permit under G.S. 143-215.1 of Article 21 may not exceed four hundred dollars ($400.00).~~ The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing an application for a permit under G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this Chapter may not exceed five hundred dollars ($500.00). The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing a registration under Part 2A of this Article or Article 38 of this Chapter may not exceed fifty dollars ($50.00) for any single registration. An additional fee of twenty percent (20%) of the registration processing fee may be assessed for a late registration under Article 38 of this Chapter. The fee for administering and compliance monitoring under ~~G.S. 143-215.1 of Article 21~~ Article 21, other than Parts 1 and 1A, and G.S. 143-215.108 and G.S. 143-215.109 of Article 21B shall be charged on an annual basis for each year of the permit term and may not exceed one thousand five hundred dollars ($1,500) per year. Fees for processing all permits under Article 21A and all other sections of ~~Articles 21 and~~ Article 21B shall not exceed one hundred dollars ($100.00) for any single permit. ~~Notwithstanding any other provision of this subdivision, the~~ The total payment for fees ~~required~~ that are set by the Commission under this subsection for all permits ~~under this subsection~~ for any single facility shall not exceed seven thousand five hundred dollars ($7,500) per year, which amount shall include all application fees and fees for administration and compliance monitoring. A single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. For all permits issued under these Articles where a fee schedule is not specified in the statutes, the Commission, or other commission specified by statute shall adopt a fee schedule in a rule following the procedures established by the Administrative Procedure Act. Fee schedules shall be established to reflect the size of the emission or discharge, the potential impact on the environment, the

staff costs involved, relative costs of the issuance of new permits and the reissuance of existing permits, and shall include adequate safeguards to prevent unusual fee assessments which would result in serious economic burden on an individual applicant. A system shall be considered to allow consolidated annual payments for persons with multiple permits. In its rulemaking to establish fee schedules, the Commission is also directed to consider a method of rewarding facilities which achieve full compliance with administrative and self-monitoring reporting requirements, and to consider, in those cases where the cost of renewal or amendment of a permit is less than for the original permit, a lower fee for the renewal or amendment.

(1c) Moneys collected pursuant to G.S. 143-215.3(a)(1a) shall be used to:

a. Eliminate, insofar as possible, backlogs of permit applications awaiting agency action;

b. Improve the quality of permits issued;

c. Improve the rate of compliance of permitted activities with environmental standards; and

d. Decrease the length of the processing period for permit applications.

(1d) The Commission may adopt and implement a graduated fee schedule sufficient to cover all direct and indirect costs required for the State to develop and administer a permit program which meets the requirements of Title V. The provisions of subdivision (1b) of this subsection do not apply to the adoption of a fee schedule under this subdivision. In adopting and implementing a fee schedule, the Commission shall require that the owner or operator of all air contaminant sources subject to the requirement to obtain a permit under Title V to pay an annual fee, or the equivalent over some other period, sufficient to cover costs as provided in section 502(b)(3)(A) of Title V. The fee schedule shall be adopted according to the procedures set out in Chapter 150B of the General Statutes.

a. The total amount of fees collected under the fee schedule adopted pursuant to this subdivision shall conform to the requirements of section 502(b)(3)(B) of Title V. No fee shall be collected for more than 4,000 tons per year of any individual regulated pollutant, as defined in section 502(b)(3)(B)(ii) of Title V, emitted by any source. Fees collected pursuant to this subdivision shall be credited to the Title V Account.

b. The Commission may reduce any permit fee required under this section to take into account the financial resources of small business stationary sources as defined under Title V and regulations promulgated by the United States Environmental Protection Agency.

c. When funds in the Title V Account exceed the total amount necessary to cover the cost of the Title V program for the next fiscal year, the Secretary shall reduce the amount billed for the next fiscal year so that the excess funds are used to supplement the cost of administering the Title V permit program in that fiscal year.

(1e) The Commission shall collect the application, annual, and project fees for processing and administering permits, certificates of coverage under general permits, and certifications issued under Parts 1 and 1A of this Article and for compliance monitoring under Parts 1 and 1A of this Article as provided in G.S. 143-215.3D and G.S. 143-215.10G.

(2) To direct that such investigation be conducted as it may reasonably deem necessary to carry out its duties as prescribed by this Article or Article 21A or Article 21B of this Chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating the condition of any waters and the discharge therein of any sewage, industrial waste, or other waste or for the purpose of investigating the condition of the air, air pollution, air contaminant sources, emissions, or the installation and operation of any air-cleaning devices, and to require written statements or the filing of reports under oath, with respect to pertinent questions relating to the operation of any air-cleaning device, sewer system, disposal system, or treatment works. In the case of effluent or emission data, any records, reports, or information obtained under this Article or Article 21A or Article 21B of this Chapter shall be related to any applicable effluent or emission limitations or toxic, pretreatment, or new source performance standards. No person shall refuse entry or access to any authorized representative of the Commission or Department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(3) To conduct public hearings and to delegate the power to conduct public hearings in accordance with the procedures prescribed by this Article or by Article 21B of this Chapter.

(4) To delegate such of the powers of the Commission as the Commission deems necessary to one or more of its members, to the Secretary or any other qualified employee of the Department. The Commission shall not delegate to persons other than its own members and the designated employees of the Department the power to conduct hearings with respect to the classification of waters, the assignment of classifications, air quality standards, air contaminant source classifications, emission control standards, or the issuance of any special order except in the case of an emergency under subdivision

(12) of this subsection for the abatement of existing water or air pollution. Any employee of the Department to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission.

(5) To institute such actions in the superior court of any county in which a violation of this Article, Article 21B of this Chapter, or the rules of the Commission has occurred, or, in the discretion of the Commission, in the superior court of the county in which any defendant resides, or has his or its principal place of business, as the Commission may deem necessary for the enforcement of any of the provisions of this Article, Article 21B of this Chapter, or of any official action of the Commission, including proceedings to enforce subpoenas or for the punishment of contempt of the Commission.

(6) To agree upon or enter into any settlements or compromises of any actions and to prosecute any appeals or other proceedings.

(7) To direct the investigation of any killing of fish and wildlife which, in the opinion of the Commission, is of sufficient magnitude to justify investigation and is known or believed to have resulted from the pollution of the waters or air as defined in this Article, and whenever any person, whether or not he shall have been issued a certificate of approval, permit or other document of approval authorized by this or any other State law, has negligently, or carelessly or unlawfully, or willfully and unlawfully, caused pollution of the waters or air as defined in this Article, in such quantity, concentration or manner that fish or wildlife are killed as the result thereof, the Commission, may recover, in the name of the State, damages from such person. The measure of damages shall be the amount determined by the Department and the North Carolina Wildlife Resources Commission, whichever has jurisdiction over the fish and wildlife destroyed to be the replacement cost thereof plus the cost of all reasonable and necessary investigations made or caused to be made by the State in connection therewith. Upon receipt of the estimate of damages caused, the Department shall notify the persons responsible for the destruction of the fish or wildlife in question and may effect such settlement as the Commission may deem proper and reasonable, and if no settlement is reached within a reasonable time, the Commission shall bring a civil action to recover such damages in the superior court in the county in which the discharge took place. Upon such action being brought the superior court shall have jurisdiction to hear and determine all issues or questions of law or fact, arising on the pleadings, including issues of liability and the amount of damages. On such hearing, the estimate of the replacement costs of the fish or wildlife destroyed shall be prima facie evidence of the actual replacement costs of such fish or wildlife. In arriving at such estimate, any reasonably accurate method may be

used and it shall not be necessary for any agent of the Wildlife Resources Commission or the Department to collect, handle or weigh numerous specimens of dead fish or wildlife.

The State of North Carolina shall be deemed the owner of the fish or wildlife killed and all actions for recovery shall be brought by the Commission on behalf of the State as the owner of the fish or wildlife. The fact that the person or persons alleged to be responsible for the pollution which killed the fish or wildlife holds or has held a certificate of approval, permit or other document of approval authorized by this Article or any other law of the State shall not bar any such action. The proceeds of any recovery, less the cost of investigation, shall be used to replace, insofar as and as promptly as possible, the fish and wildlife killed, or in cases where replacement is not practicable, the proceeds shall be used in whatever manner the responsible agency deems proper for improving the fish and wildlife habitat in question. Any such funds received are hereby appropriated for these designated purposes. Nothing in this paragraph shall be construed in any way to limit or prevent any other action which is now authorized by this Article.

(8) After issuance of an appropriate order, to withhold the granting of any permit or permits pursuant to G.S. 143-215.1 or G.S. 143-215.108 for the construction or operation of any new or additional disposal system or systems or air-cleaning device or devices in any area of the State. Such order may be issued only upon determination by the Commission, after public hearing, that the permitting of any new or additional source or sources of water or air pollution will result in a generalized condition of water or air pollution within the area contrary to the public interest, detrimental to the public health, safety, and welfare, and contrary to the policy and intent declared in this Article or Article 21B of this Chapter. The Commission may make reasonable distinctions among the various sources of water and air pollution and may direct that its order shall apply only to those sources which it determines will result in a generalized condition of water or air pollution.

The determination of the Commission shall be supported by detailed findings of fact and conclusions set forth in the order and based upon competent evidence of record. The order shall describe the geographical area of the State affected thereby with particularity and shall prohibit the issuance of permits pending a determination by the Commission that the generalized condition of water or air pollution has ceased.

Notice of hearing shall be given in accordance with the provisions of G.S. 150B-21.2.

A person aggrieved by an order of the Commission under this subdivision may seek judicial review of the order under Article 4 of

Chapter 150B of the General Statutes without first commencing a contested case. An order may not be stayed while it is being reviewed.

(9) If an investigation conducted pursuant to this Article or Article 21B of this Chapter reveals a violation of any rules, standards, or limitations adopted by the Commission pursuant to this Article or Article 21B of this Chapter, or a violation of any terms or conditions of any permit issued pursuant to G.S. 143-215.1 or 143-215.108, or special order or other document issued pursuant to G.S. 143-215.2 or G.S. 143-215.110, the Commission may assess the reasonable costs of any investigation, inspection or monitoring survey which revealed the violation against the person responsible therefor. If the violation resulted in an unauthorized discharge to the waters or atmosphere of the State, the Commission may also assess the person responsible for the violation for any actual and necessary costs incurred by the State in removing, correcting or abating any adverse effects upon the water or air resulting from the unauthorized discharge. If the person responsible for the violation refuses or fails within a reasonable time to pay any sums assessed, the Commission may institute a civil action in the superior court of the county in which the violation occurred or, in the Commission's discretion, in the superior court of the county in which such person resides or has his or its principal place of business, to recover such sums.

(10) To require a laboratory facility that performs any tests, analyses, measurements, or monitoring required under this Article or Article 21B of this Chapter to be certified annually by the Department, to establish standards that a laboratory facility and its employees must meet and maintain in order for the laboratory facility to be certified, and to charge a laboratory facility a fee for certification. Fees collected under this subdivision shall be credited to the Water and Air Account and used to administer this subdivision. These fees shall be applied to the cost of certifying commercial, industrial, and municipal laboratory facilities.

(11) Repealed by Session Laws 1983, c. 296, s. 6.

(12) To declare an emergency when it finds that a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. Regardless of any other provisions of law, if the Department finds that such a condition of water or air pollution exists and that it creates an emergency requiring immediate action to protect the public health and safety or to protect fish and wildlife, the Secretary of the Department with the concurrence of the Governor, shall order persons causing or contributing to the water or air pollution in question to reduce or discontinue immediately the emission of air contaminants or the discharge of wastes. Immediately after the issuance of such order, the chairman of the Commission shall fix a

place and time for a hearing before the Commission to be held within 24 hours after issuance of such order, and within 24 hours after the commencement of such hearing, and without adjournment thereof, the Commission shall either affirm, modify or set aside the order.

In the absence of a generalized condition of air or water pollution of the type referred to above, if the Secretary finds that the emissions from one or more air contaminant sources or the discharge of wastes from one or more sources of water pollution is causing imminent danger to human health and safety or to fish and wildlife, he may with the concurrence of the Governor order the person or persons responsible for the operation or operations in question to immediately reduce or discontinue the emissions of air contaminants or the discharge of wastes or to take such other measures as are, in his judgment, necessary, without regard to any other provisions of this Article or Article 21B of this Chapter. In such event, the requirements for hearing and affirmance, modification or setting aside of such orders set forth in the preceding paragraph of this subdivision shall apply.

(13) Repealed by Session Laws 1983, c. 296, s. 6.

(14) To certify and approve, by appropriate delegations and conditions in permits required by G.S. 143-215.1, requests by publicly owned treatment works to implement, administer and enforce a pretreatment program for the control of pollutants which pass through or interfere with treatment processes in such treatment works; and to require such programs to be developed where necessary to comply with the Federal Water Pollution Control Act and the Resource Conservation and Recovery Act, including the addition of conditions and compliance schedules in permits required by G.S. 143-215.1. Pretreatment programs submitted by publicly owned treatment works shall include, at a minimum, the adoption of pretreatment standards, a permit or equally effective system for the control of pollutants contributed to the treatment works, and the ability to effectively enforce compliance with the program.

(15) To adopt rules for the prevention of pollution from underground tanks containing petroleum, petroleum products, or hazardous substances. Rules adopted under this section may incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations.

(16) To adopt rules limiting the manufacture, storage, sale, distribution or use of cleaning agents containing phosphorus pursuant to G.S. 143-214.4(e), and to adopt rules limiting the manufacture, storage, sale, distribution or use of cleaning agents containing nitrilotriacetic acid.

(17) To adopt rules to implement Part 2A of Article 21A of Chapter 143."

(c) G.S. 143-215.3A reads as rewritten:

"**§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title V Account; I & M Air Pollution Control Account; reports.**

(a) The Water and Air Quality Account is established as a nonreverting account within the Department. Revenue in the Account shall be applied to the costs of administering the programs for which the fees were collected. Revenue credited to the Account pursuant to G.S. 105-449.125, 105-449.134, and 105-449.43 shall be used to administer the air quality program. Except for the following fees, all application fees and permit administration fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this Chapter shall be credited to the Account:

(1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other Hazardous Substances Pollution Protection Fund.

(2) Fees credited to the Title V Account.

(3) Fees credited to the Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund under G.S. 143-215.3B.

(4) Fees collected under G.S. 143-215.28A.

(5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

(a1) The total monies collected per year from fees for permits under G.S. 143-215.3(a)(1a), after deducting those monies collected under G.S. ~~143-215.3(A)(1d),~~ 143-215.3(a)(1d), shall not exceed thirty percent (30%) of the total budgets from all sources of environmental permitting and compliance programs within the Department. This subsection shall not be construed to relieve any person of the obligation to pay a fee established under this Article or Articles 21A, 21B, or 38 of this Chapter.

(b) The Title V Account is established as a nonreverting account within the Department. Revenue in the Account shall be used for developing and implementing a permit program that meets the requirements of Title V. The Title V Account shall consist of fees collected pursuant to G.S. 143-215.3(a)(1d) and G.S. 143-215.106A. Fees collected under G.S. 143-215.3(a)(1d) shall be used only to cover the direct and indirect costs required to develop and administer the Title V permit program, and fees collected under G.S. 143-215.106A shall be used only for the eligible expenses of the Title V program. Expenses of the Air Quality Compliance Advisory Panel, the ombudsman for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, support staff, equipment, legal services provided by the Attorney General, and contracts with consultants and program expenses listed in section 502(b)(3)(A) of Title V shall be included among Title V program expenses.

(b1) The I & M Air Pollution Control Account is established as a nonreverting account within the Department. Fees transferred to the Division of Air Quality of the Department pursuant to G.S. 20-183.7(c)(2) shall be credited to the I & M Air Pollution Control Account and shall be applied to the costs of developing and implementing an air pollution control program for mobile sources.

(c) The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the State's environmental permitting programs contained within such Department. In addition, the Department shall make an annual

report to the General Assembly and its Fiscal Research Division on the cost of the Title V program. The reports shall include, but are not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

(d) G.S. 143-215.10G reads as rewritten:

"**§ 143-215.10G. Fees for animal waste management systems.**

(a) Department shall charge an annual permit fee of all animal operations that are subject to a permit under G.S. 143-215.10C for animal waste management systems according to the following schedule:

(1) For a system with a design capacity of 38,500 or more and less than 100,000 pounds steady state live weight, fifty dollars ($50.00).

(2) For a system with a design capacity of 100,000 or more and less than 800,000 pounds steady state live weight, one hundred fifty dollars ~~($100.00).~~ ($150.00).

(3) For a system with a design capacity of 800,000 pounds or more steady state live weight, ~~two~~ three hundred dollars ~~($200.00).~~ ($300.00).

(b) An application for a new permit under this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee will be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Fees collected under this section shall be credited to the Water and Air Quality Account. The Department shall use fees collected pursuant to this section to cover the costs of administering this Part."

(e) G.S. 90A-42(a) reads as rewritten:

"(a) The Commission, in establishing procedures for implementing the requirements of this Article, shall impose the following schedule of fees:

(1) Examination including Certificate, ~~$75.00;~~ $85.00;

(2) Temporary Certificate, $200.00;

(3) Temporary Certification Renewal, $300.00;

(4) Conditional Certificate, $75.00;

(5) Repealed by Session Laws 1987, c. 582, s. 3.

(6) Reciprocity Certificate, $100.00;

(6a) Voluntary Conversion Certificate, $50.00;

(7) Annual Renewal, ~~$30.00;~~ $35.00;

(8) Replacement of Certificate, $20.00;

(9) Late Payment of Annual Renewal, $50.00 penalty in addition to all current and past due annual renewal fees plus one hundred dollars ($100.00) penalty per year for each year for which annual renewal fees were not paid prior to the current year; and

(10) Mailing List Charges – The Commission may provide mailing lists of certified water pollution control system operators and of water pollution control system operators to persons who request such lists.

The charge for such lists shall be twenty-five dollars ($25.00) for each such list provided."

(f) G.S. 90A-47.4(a) reads as rewritten:

"(a) An applicant for certification under this Part shall pay a fee of ~~ten dollars ($10.00)~~ twenty-five dollars ($25.00) for the examination and the certificate."

(g) Subsection (d) of Section 27.13 of Chapter 18 of the 1995 Session Laws (1996 Second Extra Session) is repealed.

(h) This section shall not be construed to relieve any person of the obligation to pay any fee due for any activity described in this section under the schedule of fees in effect prior to the date this section becomes effective.

(i) This section becomes effective January 1, 1999.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson, Gardner

INCREASE FACILITIES FEES IN THE GENERAL COURT OF JUSTICE

Section 29A.12. (a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars ($5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of ~~six dollars ($6.00)~~ twelve dollars ($12.00) in the district court, including cases before a magistrate, and the sum of ~~twenty-four dollars ($24.00)~~ thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for

these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of seven dollars and twenty-five cents ($7.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents ($5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents ($1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar ($1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.

(3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.

(4) For support of the General Court of Justice, the sum of sixty-one dollars ($61.00) in the district court, including cases before a magistrate, and the sum of sixty-eight dollars ($68.00) in the superior court, to be remitted to the State Treasurer.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars ($15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars ($50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee."

(b) G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ~~six dollars ($6.00)~~ twelve dollars ($12.00) in cases heard before a magistrate, and the sum of ~~ten dollars ($10.00)~~ sixteen dollars ($16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of fifty-five dollars ($55.00) in the superior court, and the sum of forty dollars ($40.00) in the district court except that if the case is assigned to a magistrate the sum shall be twenty-eight dollars ($28.00). Sums collected under this subsection shall be remitted to the State Treasurer."

(c) G.S. 7A-306(a) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ~~four dollars ($4.00)~~ ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice the sum of twenty-six dollars ($26.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subsection shall be remitted to the State Treasurer."

(d) G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, and in collections of personal property by affidavit, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ~~four dollars ($4.00),~~ ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of twenty-six dollars ($26.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars ($3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be ten dollars ($10.00). Sums collected under this subsection shall be remitted to the State Treasurer.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed three thousand dollars ($3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of fifteen dollars ($15.00) shall be assessed on the filing of each annual and final account.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of seventeen dollars ($17.00)."

(e) G.S. 7A-311(a) reads as rewritten:

"(a) In a civil action or special proceeding, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. ~~Effective October 1, 1990, for every civil action filed on or after that date, for~~ For each item of civil ~~process,~~ process served, including summons, subpoenas, notices, motions, orders, writs and ~~pleadings served,~~ pleadings, the sum of five dollars ($5.00). When two or more items of civil process are served simultaneously on one party, only one five dollar ($5.00) fee shall be charged.

b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for

each person or organization. If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.

(2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.

(3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars ($500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars ($500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.

(4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.

(5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees."

(f) This section becomes effective February 1, 1999, and applies to fees assessed or paid on or after that date.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

AMEND CONSERVATION TAX CREDITS

Section 29A.13. (a) G.S. 105-134.6(c)(5) reads as rewritten:

"(5) The ~~fair market value, up to a maximum of four hundred thousand dollars ($400,000), of the donated property interest for which the taxpayer claims a credit for the taxable year under G.S. 105-151.12 and the~~ market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14."

(b) G.S. 105-151.12(c) is repealed.

(c) G.S. 105-130.34(a), as amended by S.L. 1998-98, reads as rewritten:

"(a) Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property

interest. To be eligible for this credit, the interest in real property must be donated to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed ~~two hundred fifty thousand dollars ($250,000).~~ five hundred thousand dollars ($500,000). To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection."

(d) G.S. 105-151.12(a), as amended by S.L. 1998-98, reads as rewritten:

"(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed ~~one hundred thousand dollars ($100,000).~~ two hundred fifty thousand dollars ($250,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection."

(e) This section becomes effective for taxable years beginning on or after January 1, 1999.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

REVENUE PENALTIES UNIFORM

Section 29A.14. (a) G.S. 105-109 reads as rewritten:

"**§ 105-109. ~~Engaging in business without a license.~~ Obtaining license and paying tax.**

(a) All State license taxes under this Article or schedule, unless otherwise provided for, shall be due and payable annually on or before the first day of July of each year, or at the date of engaging in such business, trade, employment and/or profession, or doing the act.

(b) License Required. – Before a person may engage in a business, trade, or profession for which a license is required under this Article, the person must be licensed by the Department pursuant to G.S. 105-104. A license must be displayed conspicuously at the location of the licensed business, trade, or profession. ~~If any person, firm, or corporation shall continue the business, trade, employment, or profession, or to do the act, after the expiration of a license previously issued, without obtaining a new license, he or it shall be guilty of a Class 1 misdemeanor, which may include a fine which shall not be less than twenty percent (20%) of the tax in addition to the tax and the costs; and if such failure to apply for and obtain a new license be continued, such person, firm, or corporation shall pay additional tax of five per centum (5%) of the amount of the State license tax which was due and payable on the first day of July of the current year, in addition to the State license tax imposed by this Article, for each and every 30 days, or fraction thereof, that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed by the Secretary of Revenue and paid with the State license tax, and shall become a part of the State license tax. The penalties for delayed payment hereinbefore provided shall not impair the obligation to procure a license in advance or modify any of the pains and penalties for failure to do so.~~

~~The provisions of this section shall apply to taxes levied by the counties of the State under authority of this Article in the same manner and to the same extent as they apply to taxes levied by the State.~~

(c) ~~If any person, firm, or corporation shall commence to exercise any privilege or to promote any business, trade, employment, or profession, or to do any act requiring a State license under this Article without such State license, he or it shall be guilty of a Class 1 misdemeanor; and if such failure, neglect, or refusal to apply for and obtain such State license be continued, such person, firm, or corporation shall pay an additional tax of five per centum (5%) of the amount of such State license tax which was due and payable at the commencement of the business, trade, employment or profession, or doing the act, in addition to the State license tax imposed by this Article, for each and every 30 days, or fraction thereof, that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed by the Secretary of Revenue and paid with the State license tax and shall become a part of the State license tax.~~

(d) Penalties. – The penalties in G.S. 105-236 apply to this Article. The Secretary may collect a tax due under this Article in any manner allowed under Article 9 of this Chapter. ~~If any person, firm, or corporation shall fail, refuse, or neglect to make immediate payment of any taxes due and payable under this Article, additional taxes, and/or any penalties imposed pursuant thereto, upon demand, the Secretary of Revenue shall certify the same to the sheriff of the county in which such delinquent lives or has his place of business, and such sheriff shall have the power and shall levy upon any personal or real property owned by such delinquent person, firm, or corporation, and sell the same for the payment of the said tax or taxes, penalty and costs, in the same manner as provided by law for the levy and sale of property for the collection of other taxes, and if sufficient property is not found, the said sheriff or~~

~~deputy commissioner shall swear out a warrant for the violation of the provisions of this Article and as provided in this Article.~~

(e) Local License Taxes. – The penalty and collection provisions of this section apply to taxes levied by counties of the State under the authority of this Article in the same manner and to the same extent as they apply to taxes levied by the State. The provisions of this section for the collection of delinquent license taxes ~~shall~~ apply to license taxes levied by the cities and towns of this State under authority of this Article, or any other provision of law, in the same manner and to the same extent as they apply to taxes levied by the ~~State and counties of this State: Provided, the municipal officer charged with the duty of collecting municipal taxes may exercise the powers vested in the sheriff by this section.~~ State."

(b) G.S. 105-110 is repealed.

(c) G.S. 105-112 is repealed.

(d) G.S. 105-113.3(b) reads as rewritten:

"(b) Administration. ~~– Except as provided in this section,~~ Article 9 of this Chapter applies to this Article. ~~If a person fails or refuses to pay a tax due under this Article, a penalty shall be added to the tax due in an amount equal to fifty percent (50%) of the tax due~~."

(e) G.S. 105-113.87 reads as rewritten:

"**§ 105-113.87. Refund for excise tax paid on sacramental wine.**

(a) Refund Allowed. – A person who purchases wine for the purpose stated in G.S. 18B-103(8) may obtain a refund from the Secretary for the amount of the excise tax levied under this Article. The Secretary shall make refunds annually.

(b) Application. – An applicant for a refund authorized by this section shall file a written request with the Secretary for the refund due for the prior calendar year on or before April 15. The Secretary may by rule prescribe what information and records shall be supplied by the applicant to qualify for the refund. No refund may be made if the application is filed more than three years after the date it is due.

~~(c) Late Application. – An application for a refund filed later than required in subsection (b) shall be accepted by the Secretary but shall be subject to the following late penalties: an application filed by May 15, twenty-five percent (25%); an application filed after May 15 but no later than October 15, fifty percent (50%). No refund may be made if the application is filed after October 15~~."

(f) G.S. 105-130.6, as amended by S.L. 1998-98, reads as rewritten:

"**§ 105-130.6. Subsidiary and affiliated corporations.**

The net income of a corporation doing business in this State ~~which~~ that is a parent, ~~subsidiary~~ subsidiary, or affiliate of another corporation shall be determined by eliminating all payments to or charges by ~~a~~ the parent, ~~subsidiary~~ subsidiary, or affiliated corporation in excess of fair compensation in all intercompany transactions of any kind whatsoever. If the Secretary ~~of Revenue shall find~~ finds as a fact that a report by ~~such~~ a corporation does not disclose the true earnings of ~~such~~ the corporation on its business carried on in this State, the Secretary may require ~~that such~~ the corporation to file a consolidated return of the entire operations of the parent corporation and of its subsidiaries and affiliates, including its own operations and ~~income, and shall~~ income.

The Secretary shall determine the true amount of net income earned by ~~such~~ the corporation in this ~~State as provided herein.~~ State. The combined net income of ~~such~~ the corporation and of its parent, ~~subsidiaries~~ subsidiaries, and affiliates shall be apportioned to this State by use of the applicable apportionment formula required to be used by ~~such~~ the corporation under G.S. 105-130.4. ~~In such cases there shall be included~~ The return shall include in the apportionment formula the property, ~~payrolls~~ payrolls, and sales of all corporations for which the return is made. For the purposes of this section, a corporation ~~shall be deemed~~ is considered a subsidiary of another corporation ~~hereby designated the parent corporation,~~ when, directly or indirectly, it is subject to control by ~~such~~ the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interests, whether ~~such~~ the control is direct or through one or more subsidiary, affiliated, or controlled ~~corporations, and a~~ corporations. A corporation ~~shall be deemed~~ is considered an affiliate of another corporation when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether ~~such~~ the control ~~be~~ is direct or through one or more subsidiary, ~~affiliated~~ affiliated, or controlled corporations. ~~Upon such a finding by the Secretary of Revenue,~~ The Secretary may require a ~~the~~ consolidated return ~~authorized by~~ under this section ~~may be required~~ regardless of whether the parent or controlling corporation or interests or its subsidiaries or affiliates, other than the taxpayer, are or are not doing business in this State.

If ~~such~~ a consolidated return ~~is~~ required ~~and~~ by this section is not filed within 60 days after ~~demand,~~ it is demanded, ~~said parent, subsidiary or affiliated corporation shall be subject to the penalty provided in this act for failure to file return and, in addition, shall be subject to the penalty provided in G.S. 105-230, and in such event the provisions of G.S. 105-236 shall apply.~~ then the corporation is subject to the penalties provided in G.S. 105-230 and G.S. 105-236.

~~Such~~ The parent, ~~subsidiary~~ subsidiary, or affiliated corporation ~~shall~~ must incorporate in its return required under this section ~~such information as the Secretary of Revenue may reasonably require for the determination of~~ information needed to determine the net income taxable under this Part, and ~~shall~~ must furnish ~~such~~ any additional information ~~as~~ the Secretary ~~may reasonably require.~~ requires. If the return does not contain the information ~~therein~~ required or ~~such~~ the additional information requested is not furnished within 30 days after ~~demand,~~ it is demanded, the corporation ~~shall be subject to a penalty of one hundred dollars ($100.00) for each day's omission, in addition~~ is subject to the ~~penalty~~ penalties provided in ~~G.S. 105-230.~~ G.S. 105-230 and G.S. 105-236.

If the Secretary finds that the determination of the income of a parent, ~~subsidiary~~ subsidiary, or affiliated corporation under a consolidated return ~~as herein provided~~ will produce a greater or lesser figure than the amount of income earned in this State, ~~he~~ the Secretary may readjust the determination by reasonable methods of computation to make it conform to the amount of income earned in this ~~State; and if~~ State. If the corporation contends the figure produced is greater than the earnings in this State, it

~~shall~~ must file with the Secretary within 30 days after notice of ~~such determination, file with the Secretary~~ the determination a statement of its objections and of an alternative method of ~~determination with such detail and proof as the Secretary may require, and the~~ determination. The Secretary ~~shall~~ must consider the ~~same~~ statement in determining the income earned in this State. ~~In making such determination, the~~ The findings and conclusions of the Secretary shall be presumed to be correct and shall not be set aside unless shown to be plainly wrong."

(g) G.S. 105-163.8 reads as rewritten:

"**§ 105-163.8. Liability of withholding ~~agents and others.~~ agents.**

~~(a) Withholding Agents.~~ A withholding agent who withholds the proper amount of income taxes under this Article and pays the withheld amount to the Secretary is not liable to any person for the amount paid. A withholding agent who fails to withhold the proper amount of income taxes or pay the amount withheld to the Secretary is liable for the amount of tax not withheld or not paid. A withholding agent who fails to withhold the amount of income taxes required by this Article or who fails to pay withheld taxes by the due date for paying the taxes is subject to the penalties provided in Article 9 of this Chapter.

~~(b) Others. A person who has a duty to deduct, account for, or pay taxes required to be withheld under this Article and who fails to do so is liable for the amount of tax not deducted, not accounted for, or not paid~~."

(h) G.S. 105-163.15(a) reads as rewritten:

"(a) In the case of any underpayment of the estimated tax by an individual, ~~there shall be added to the tax imposed under Article 4 for the taxable year~~ the Secretary shall assess a penalty in an amount determined by applying the applicable annual rate established under G.S. 105-241.1(i) to the amount of the underpayment for the period of the underpayment."

(i) G.S. 105-164.14(d) reads as rewritten:

"(d) ~~Penalties for~~ Late Applications. ~~Refunds made pursuant to applications filed after the dates specified in subsections (b) and (c) above are subject to the following penalties for late filing: applications filed within 30 days after the due date, twenty-five percent (25%); applications filed after 30 days but within three years after the due date, fifty percent (50%).~~ Refunds applied for more than three years after the due date are barred."

(j) G.S. 105-228.2(i) reads as rewritten:

"(i) ~~If any such freight line company or railroad company shall fail to pay the tax levied herein when due a penalty of ten percent (10%) thereof shall immediately accrue and thereafter one percent (1%) per month shall be added to such tax and penalty while such tax remains unpaid. All provisions of laws for enforcing payment of taxes levied in this Article shall be applicable to the gross earnings taxes of freight line companies. Any freight line company against which a tax is assessed under the provisions of this Article may appear and defend in any action brought for the collection of such tax.~~ The provisions of Article 9 of this Chapter apply to this Article."

(k) G.S. 105-231 is recodified as G.S. 105-230(b).

(l) G.S. 105-230, as amended by this section, reads as rewritten:

"**§ 105-230. Charter suspended for failure to report.**

If a corporation or a limited liability company fails to file any report or return or to pay any tax or fee required by this Subchapter for 90 days after it is due, the Secretary shall inform the Secretary of State of this failure. The Secretary of State shall suspend the articles of incorporation, articles of organization, or certificate of authority, as appropriate, of the corporation or limited liability company. The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company so suspended of its suspension. The powers, privileges, and franchises conferred upon the corporation or limited liability company by the articles of incorporation, the articles of organization, or the certificate of authority terminate upon suspension. ~~The Secretary of State shall immediately notify by mail every domestic or foreign corporation or limited liability company of the suspension.~~

~~(b) Penalty for exercising functions after suspension of articles or certificate.~~

~~A person who exercises or by any act attempts to exercise any powers, privileges, or franchises under articles of incorporation, articles of organization, or a certificate of authority after it has been suspended under G.S. 105-230 shall pay a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000), to be recovered in an action to be brought by the Secretary in the Superior Court of Wake County.~~ Any act performed or attempted to be performed during the period of suspension is invalid and of no effect."

(m) G.S. 105-236 reads as rewritten:

"**§ 105-236. Penalties.**

Penalties assessed by the Secretary under this Subchapter are assessed as an additional tax. Except as otherwise provided by law, and subject to the provisions of G.S. 105-237, the following penalties shall be applicable:

(1) Penalty for Bad Checks. – When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Secretary shall assess ~~an additional tax~~ a penalty equal to ten percent (10%) of the ~~check shall be imposed,~~ check, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the Secretary finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. The ~~additional tax~~ penalty imposed may not be waived or diminished by the Secretary.

(1a) Penalty for Bad Electronic Funds Transfer. – When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Secretary shall assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar ($1.00) and a maximum of one

thousand dollars ($1,000). This penalty may be waived by the Secretary in accordance with G.S. 105-237.

(1b) Making Payment in Wrong Form. – For making a payment of tax in a form other than the form required by the Secretary pursuant to G.S. 105-241(a), the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty may be waived by the Secretary in accordance with G.S. 105-237.

(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, ~~there shall be assessed an additional tax~~ the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, ~~which additional tax shall not~~ not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars ($5.00).

(3) Failure to File Return. – In case of failure to file any return on the date ~~prescribed therefor (determined~~ it is due, determined with regard to any extension of time for ~~filing), unless it is shown that the failure is due to reasonable cause, there shall be added to the amount required to be shown as tax on the return, as a penalty,~~ filing, the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) in the aggregate, or five dollars ($5.00), whichever is the greater.

(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, ~~there shall be an additional tax, as a penalty, of~~ the Secretary shall assess a penalty equal to ten percent (10%) of the ~~tax; provided,~~ tax, except that ~~such~~ the penalty shall in no event be less than five dollars ($5.00). This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When a tax due but not shown on a return is assessed by the Secretary and is paid within 30 days after the date of the proposed notice of assessment of the tax.

(5) Negligence. –

a. ~~Most cases.~~Finding of negligence. – For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, ~~there shall be assessed, as a penalty, an additional tax of~~ the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.

b. Large income tax deficiency. – In the case of income tax, if a taxpayer understates ~~gross income, overstates deductions from gross income, other than personal exemptions, makes erroneous adjustments to federal taxable income, or does any combination of these, and the combined errors equal or exceed~~ taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, ~~the penalty assessed shall be~~ the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, 'gross income' means gross income as defined in section 61 of the Code. ~~Code and "deductions"means deductions allowed in arriving at federal taxable income.~~

c. ~~Large sales~~ Other large tax deficiency. – In the case of a tax other than income tax, ~~sales and use taxes,~~ if a taxpayer understates ~~total~~ tax liability by twenty-five percent (25%) or ~~more as a result of one or more of the following reasons, the penalty assessed shall be~~ more, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. ~~total deficiency:~~

~~1. Omission or understatement of gross sales, gross receipts, or gross purchases.~~

~~2. Overstatement of exemptions or deductions.~~

~~3. Incorrect application of a lesser rate of tax.~~

d. No double penalty. – If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

e. Inheritance and gift tax deficiencies. – This subdivision does not apply to inheritance, estate, and gift tax deficiencies that are the result of valuation understatements.

(5a) Misuse of Certificate of Resale. – For misuse of a certificate of resale by a purchaser, the Secretary shall assess ~~an additional tax, as~~ a ~~penalty, of~~ penalty equal to two hundred fifty dollars ($250.00).

(5b) Road Tax Understatement. – If a motor carrier understates its liability for the road tax imposed by Article 36B of this Chapter by twenty-five percent (25%) or more, the Secretary shall assess the motor carrier a penalty in an amount equal to two times the amount of the deficiency.

(6) Fraud. – If there is a deficiency or delinquency in payment of any tax because of fraud with intent to evade the tax, ~~there shall be assessed, as a penalty, an additional tax~~ the Secretary shall assess a penalty equal to fifty percent (50%) of the total deficiency.

(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any person who aids or abets any person to attempt in any manner to evade or defeat a tax or its payment, shall, in addition to other

penalties provided by law, be guilty of a Class I felony which may include a fine up to twenty-five thousand dollars ($25,000).

(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required to collect, withhold, account for, and pay over any tax who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation.

(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person required to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay the tax, make the return, keep the records, or supply the information, at the time or times required by law, or rules issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation.

(9a) Aid or Assistance. – Any person, pursuant to or in connection with the revenue laws, who willfully aids, assists in, procures, counsels, or advises the preparation, presentation, or filing of a return, affidavit, claim, or any other document that the person knows is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present or file the return, affidavit, claim, or other document, shall be guilty of a Class I felony which may include a fine up to ten thousand dollars ($10,000).

(10) Failure to File Informational Returns. –

~~a. For failure to file a partnership or a fiduciary informational return when the return is due to be filed, there shall be assessed as a tax against the delinquent five dollars ($5.00) per month or fraction thereof of the delinquency, this penalty, however, in the aggregate not to exceed twenty-five dollars ($25.00). When assessed against a fiduciary, the penalty shall be paid by the fiduciary and shall not be passed on to the trust or estate. No tax may be assessed against the delinquent when it is a partnership as defined under Section 6231(a)(1)(B) of the Code and no penalty could be assessed as provided by Rev. Proc. 84-35, except that for the purpose of Section 3.01 of that procedure "the Department of Revenue"is substituted for "the Internal Revenue Service".~~

b. ~~For failure to file timely statements of payments to another person with respect to wages, dividends, rents, or interest paid to that person, there shall be assessed as a tax a penalty of one dollar ($1.00) for each statement not filed on time, the aggregate of the penalties for each tax year not to exceed one hundred dollars ($100.00), and in addition thereto, if the Secretary requests the payer to file the statements and sets a date by which the statements must be filed, and~~ The Secretary may request a person who fails to file timely statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements ~~within this time,~~ by that date, the amounts claimed on payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements.

c. For failure to file an informational return required by Article 36C or 36D of this Chapter by the date the return is due, there shall be assessed ~~as a tax~~ a penalty of fifty dollars ($50.00).

(11) Any violation of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes is considered an act committed in part at the office of the Secretary in Raleigh. The certificate of the Secretary that a tax has not been paid, a return has not been filed, or information has not been supplied, as required by law, is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied.

(12) Repealed by Session Laws 1991, c. 45, s. 27, effective April 22, 1991."

(n) G.S. 105-241.2(c) reads as rewritten:

"(c) Frivolous Petitions. – Upon receipt of a petition requesting administrative review as provided in the preceding subsection, the Tax Review Board shall examine the petition and the records and other data transmitted by the Secretary pertaining to the matter for which review is sought, and if it ~~should appear~~ appears from ~~such~~ the records and data that the petition is frivolous or filed for the purpose of delay, the Tax Review Board shall dismiss the petition for ~~review and, in addition, is authorized, in its discretion, to impose a penalty not to exceed one hundred dollars ($100.00), which penalty shall be in addition to the tax, penalties, interests, and costs, and shall be collected in the same manner as the principal tax liability.~~ review."

(o) G.S. 105-244 is repealed.

(p) G.S. 105-253 reads as rewritten:

"**§ 105-253. Personal liability ~~of officers, trustees, or receivers.~~ when certain taxes not remitted.**

(a) Any officer, trustee, or receiver of any corporation required to file a report with the Secretary ~~of Revenue~~ who has custody of funds of the corporation and who

allows the funds to be paid out or distributed to the stockholders of the corporation without having remitted to the Secretary ~~of Revenue~~ any State taxes that are due ~~shall be~~ is personally liable for the payment of the ~~tax, and shall be subject to an additional penalty equal to the amount of tax due.~~ tax.

(b) Each responsible ~~corporate~~ officer is personally and individually liable for all of the following:

(1) All sales and use taxes collected by a corporation or a limited liability company upon its taxable ~~transactions of the corporation.~~ transactions.

(2) All sales and use taxes due upon taxable transactions of ~~the~~ a corporation or a limited liability company but upon which ~~the corporation~~ it failed to collect the tax, but only if the ~~responsible officer~~ person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) All taxes due from ~~the~~ a corporation or a limited liability company pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by ~~the corporation~~ it to a supplier for remittance to this State or another state.

(4) All income taxes required to be withheld from the wages of employees of a corporation or a limited liability company.

The liability of the responsible ~~corporate~~ officer is satisfied upon timely remittance of the tax by the ~~corporation.~~ corporation or the limited liability company. If the tax remains unpaid ~~by the corporation~~ after it is due and payable, the Secretary may assess the tax ~~against,~~ against and collect the tax ~~from,~~ from any responsible ~~corporate~~ officer in accordance with the procedures in this Article for assessing and collecting tax from a taxpayer. As used in this section, the term "responsible ~~corporate~~ officer" ~~includes~~ means the president and the treasurer of ~~the corporation~~ a corporation, the manager of a limited liability company, and any ~~other officers assigned the duty of filing tax returns and remitting taxes on behalf of the corporation.~~ officer of a corporation or member of a limited liability company who has a duty to deduct, account for, or pay taxes listed in this subsection.Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency ~~shall~~ also apply to ~~any~~ an assessment made under this section. The provisions of this Article apply to an assessment made under this section to the extent they are not inconsistent with this section.

The period of limitations for assessing a responsible ~~corporate~~ officer for unpaid taxes under this section ~~shall expire~~ expires one year after the expiration of the period of limitations for assessment against the ~~corporation.~~ corporation or limited liability company.

(c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1007, s. 15."

(q) G.S. 105-449.45(d) reads as rewritten:

"(d) Penalties. – A motor carrier that fails to file a report under this section by the required date is subject to a penalty of ~~up to fifty dollars ($50.00) for the first failure and of up to one hundred dollars ($100.00) for a subsequent failure.~~ fifty dollars ($50.00)."

(r) G.S. 105-449.108 is amended by adding a new subsection to read:

"(d) Late Application. – A refund applied for more than three years after the date the application is due is barred."

(s) G.S. 105-449.109 is repealed.

(t) This section becomes effective January 1, 1999.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

EXTEND QUALIFIED BUSINESS CREDIT SUNSET

Section 29A.15. (a) Section 7 of Chapter 443 of the 1993 Session Laws reads as rewritten:

"Sec. 7. ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes is repealed effective for investments made on or after January 1, ~~1999.~~ 2003. ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes will remain in effect for investments made before January 1, ~~1999.~~ 2003."

(b) Section 10 of Chapter 443 of the 1993 Session Laws reads as rewritten:

"Sec. 10. Section 6 of this act is effective upon ratification. Section 7 of this act becomes effective for investments made on or after January 1, ~~1999.~~ 2003. The remainder of this act becomes effective for taxable years beginning on or after January 1, 1994.

A business registered as a qualified business venture or a qualified grantee business before January 1, 1994, retains its registration until the renewal date for the registration of that business under ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes as in effect before January 1, 1994. The Secretary of State shall not grant renewal of a registration as a qualified business venture or a qualified grantee business unless at the time of filing the renewal application, the business meets the requirements then in effect for a new registration.

Notwithstanding the provisions of G.S. 105-163.014(a), as amended by this act, a credit under ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes for an investment made before January 1, 1994, is not forfeited solely on the grounds that a sibling of the taxpayer provides services for compensation to the business in which the taxpayer invested.

Notwithstanding the provisions of G.S. 105-163.014(d), as amended by this act, a credit under ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes for an investment made before January 1, 1994, is not forfeited solely on the grounds that a redemption of the securities received in the investment is made within five years after the investment was made.

The Secretary of State may require a qualified business venture or a qualified grantee business that is unable to renew its registration after January 1, 1994, to file reports the Secretary of State considers appropriate to determine the location of the headquarters and principal business operations of the business until three years after the date of the last investment in the business that qualified for the tax credit allowed under ~~Division V~~ Part 5 of Article 4 of Chapter 105 of the General Statutes."

(c) This section is effective when it becomes law.

Requested by: Senators Hoyle, Kerr, Ballantine, Representatives Gray, Brawley, Dickson, C. Wilson

QUALIFIED BUSINESS CREDIT FOR MOVIES

Section 29A.16. (a) G.S. 105-163.014 is amended by adding a new subsection to read:

"(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this section if a qualified business venture that engages primarily in motion picture film production makes a redemption with respect to securities received in an investment and the following conditions are met:

(1) The redemption occurred because the qualified business venture completed production of a film, sold the film, and was liquidated.

(2) Neither the qualified business venture nor a related person continues to engage in business with respect to the film produced by the qualified business venture."

(b) G.S. 105-163.014(d)(2) reads as rewritten:

"(2) ~~Within~~ Except as provided in subsection (d1) of this section, within five years after the investment was made, the qualified business venture or qualified grantee business in which the investment was made makes a redemption with respect to the securities received in the investment."

(c) G.S. 105-163.010 is amended by adding a new subdivision to read:

"(10a) Related person. – A person described in one of the relationships set forth in section 267(b) or 707(b) of the Code."

(d) G.S. 105-163.010(14) reads as rewritten:

"(14) Subordinated debt. – Indebtedness that ~~(i) by its terms matures five or more years after its issuance, (ii) is not secured, and (iii)~~ is not secured and is subordinated to all other indebtedness of the issuer issued or to be issued to a financial institution other than a financial institution described in subdivisions (5)(ii) through (5)(v) of this section. ~~Any~~ Except as provided in G.S. 105-163.014(d1), any portion of indebtedness that matures earlier than five years after its issuance is not subordinated debt."

(e) G.S. 105-163.013(b), as amended by S.L. 1998-98, reads as rewritten:

"(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified business venture. A business meets the requirements for registration as a qualified business venture if all of the following are true as of the date the business files the required application:

(1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(1b) Either (i) it was organized after January 1 of the calendar year in which its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis.

(2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(3) It is organized to engage primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry.

(4) It does not engage as a substantial part of its business in any of the following:

a. Providing a professional service as defined in Chapter 55B of the General Statutes.

b. Construction or contracting.

c. Selling or leasing at retail.

d. The purchase, sale, or development, or purchasing, selling, or holding for investment of commercial paper, notes, other indebtedness, financial instruments, securities, or real property, or otherwise make investments.

e. Providing personal grooming or cosmetics services.

f. Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.

(5) It was not formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses.

(6) It is not a real estate-related business.

The effective date of registration for a qualified business venture whose application is accepted for registration is ~~the filing date of its application.~~ 60 days before the date its application was filed. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned upon other investors' commitment of additional funds, the date of the investment is the date escrowed funds are transferred to the qualified business venture free of the condition.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The

Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars ($1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars ($1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed five million dollars ($5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year."

(f) This section is effective for taxable years beginning on or after January 1, 1999.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

STUDY TAXPAYER ATTORNEY FEE ISSUE

Section 29A.17. (a) The Revenue Laws Study Committee shall study whether a taxpayer should receive reimbursement of legal costs, including reasonable attorney fees, from the State when the taxpayer substantially prevails in an administrative appeal or a lawsuit with respect to the amount in controversy or with respect to the most significant issue or set of issues presented. The Committee may report its findings and recommendations on this issue to the 1999 Regular Session of the 1999 General Assembly.

(b) This section is effective when it becomes law.

Requested by: Senators Hoyle, Kerr, Representatives Gray, Brawley, Dickson, C. Wilson

CONTINUING CARE RETIREMENT HOMES EXEMPT

Section 29A.18. (a) G.S. 105-275(32) is recodified as G.S. 105-278.6A and reads as rewritten:

"**§ 105-278.6A. Qualified retirement facility.**

(a) Classification. – Real and personal property owned by a ~~home for the aged, sick, or infirm, that is exempt from tax under Article 4 of this Chapter,~~ qualified retirement facility and used in the operation of that ~~home.~~ facility is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and shall not be listed, assessed, or taxed.

(b) Facility Defined. – As used in this section, the term 'retirement facility' means a ~~The term "home for the aged, sick, or infirm"means a self-contained~~ community that meets all of the following conditions:

(1) Its grounds and buildings are at a single site.

(2) It ~~(i)~~ is designed for elderly ~~residents; (ii)~~ residents.

(3) It includes independent living units for elderly residents.

(4) ~~operates~~ It includes a skilled nursing ~~facility, an intermediate care facility, or a home for the aged; (iii)~~ facility or an adult care facility. ~~includes residential dwelling units, recreational facilities, and service facilities; (iv) the charter of which~~

(c) Qualification. – A retirement facility qualifies for the benefits of this section if it meets all of the following conditions:

(1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.

(2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the local community, or are applied to an endowment or a reserve for these purposes.

(3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and ~~which qualifies as~~ is an exempt organization under ~~Section 501(c)(3) of the Internal Revenue Code of 1986;~~ section 501(c)(3) of the Code.

~~(v) is owned, operated, and managed by one of the following entities:~~

~~a. A congregation, parish, mission, synagogue, temple, or similar local unit of a church or religious body;~~

~~b. A conference, association, division, presbytery, diocese, district, synod, or similar unit of a church or religious body;~~

~~c. A Masonic organization whose property is excluded from taxation pursuant to G.S. 105-275(18); or~~

~~d. A nonprofit corporation~~

(4) Its charter or bylaws, as they existed on August 15, 1998, provide that it is governed by a board of directors or trustees at least a majority of whose members ~~elected for terms commencing on or before December 31, 1987, shall have been elected or confirmed by, and all of whose members elected for terms commencing after December 31, 1987, shall be~~ are selected ~~by,~~ by one or more ~~entities described in A., B., or C. of this subdivision, or organized for a religious purpose as defined in G.S. 105-278.3(d)(1); and~~ nonprofit corporations that meet all of the following conditions:

a. It is exempt under section 501(c)(3) of the Code.

b. It is organized for a charitable purpose as defined in G.S. 105-278.6.

c. It is not a private foundation as defined in section 509 of the Code.

(5) ~~(vi)~~ It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the ~~home~~ retirement facility in serving

persons who might not be able to reside ~~at the home~~ there without financial assistance or subsidy."

(b) G.S. 105-164.14(b)(4) reads as rewritten:

"(4) ~~Homes for the aged, sick, or infirm~~ Qualified retirement facilities whose property is excluded from property tax under G.S. ~~105-275(32).~~ 105-278.6A."

(c) G.S. 105-273 is amended by adding a new subdivision to read:

"(4a) Code. – Defined in G.S. 105-228.90."

(d) The Legislative Research Commission shall conduct a comprehensive study of property tax exemptions for nonprofit institutions, including the history and evolution of such exemptions in North Carolina, the policy reasons for property tax exemptions, the effect of the exemptions on local governments and on other taxpayers, the extent to which other states provide property tax exemptions for nonprofit institutions, and any other issues it considers relevant. The Legislative Research Commission may make an interim report of its findings and recommendations on this issue to the 1999 Regular Session of the 1999 General Assembly and shall make a final report of its findings and recommendations to the 2000 Regular Session of the 1999 General Assembly. The temporary property tax exemption provided in this section shall not be considered a precedent or guideline for the purpose of the Legislative Research Commission's study or recommendations.

(e) Subsection (a) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding the provisions of G.S. 105-282.1(a), an application for the benefit provided in subsection (a) of this section for the 1998-99 tax year is timely if it is filed on or before November 15, 1998. Subsection (a) of this section is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2000. The remainder of this section is effective when it becomes law.

PART XXX. MISCELLANEOUS PROVISIONS

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

EXECUTIVE BUDGET ACT APPLIES

Section 30. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

COMMITTEE REPORT

Section 30.1. (a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated October 26, 1998, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these

purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 1998-99 fiscal year is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget, in accordance with the steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated October 26, 1998, together with any accompanying correction sheets.

(2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated October 26, 1998, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

MOST TEXT APPLIES ONLY TO 1998-99

Section 30.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 30.3. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, S.L. 1998-153, and S.L. 1998-166, remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, S.L. 1998-153, and S.L. 1998-166, that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

(c) Section 19 of S.L. 1998-23 reads as rewritten:

"Section 19. Except as otherwise provided, this act becomes effective July 1, ~~1998, and expires on the effective date of the Current Operations Appropriations and Capital Improvements Appropriations Act of 1998.~~ 1998."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

EFFECT OF HEADINGS

Section 30.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

SEVERABILITY CLAUSE

Section 30.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

EFFECTIVE DATE

Section 30.6. Except as otherwise provided, this act becomes effective July 1, 1998.

In the General Assembly read three times and ratified this the 28th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:00 a.m. this 30th day of October, 1998