

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-126
SENATE BILL 1115**

AN ACT TO MODIFY THE CURRENT OPERATIONS APPROPRIATIONS ACT
OF 2001 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

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham,
Redwine

INTRODUCTION

SECTION 1.1. 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.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham,
Redwine

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations, Capital Improvements, and Finance Act of 2002."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham,
Redwine

CURRENT OPERATIONS - GENERAL FUND

SECTION 2.1. 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, 2003, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2002-2003 fiscal year.

Current Operations - General Fund **2002-2003**

EDUCATION

Community Colleges System Office	26,085,931
Department of Public Instruction	(27,635,053)
University of North Carolina - Board of Governors	
Appalachian State University	(2,594,849)

East Carolina University	
Academic Affairs	(3,780,292)
Health Affairs	(1,326,263)
Elizabeth City State University	(636,905)
Fayetteville State University	(904,051)
NC Agricultural and Technical University	(1,794,345)
North Carolina Central University	(1,372,196)
North Carolina School of the Arts	(864,283)
North Carolina State University	
Academic Affairs	(8,298,776)
Agricultural Extension	(1,077,848)
Agricultural Research	(1,361,284)
University of North Carolina at Asheville	(811,533)
University of North Carolina at Chapel Hill	
Academic Affairs	(6,068,562)
Health Affairs	(4,816,196)
Area Health Education Centers	(1,326,559)
University of North Carolina at Charlotte	(3,197,696)
University of North Carolina at Greensboro	(2,790,399)
University of North Carolina at Pembroke	(713,835)
University of North Carolina at Wilmington	(1,916,521)
Western Carolina University	(1,744,797)
Winston-Salem State University	(1,077,326)
General Administration	(2,463,801)
University Institutional Programs	39,815,922
Related Educational Programs	(17,896,363)
North Carolina School of Science and Mathematics	(36,334)
UNC Hospitals at Chapel Hill	(1,168,629)
Total	(30,223,721)

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Office of the Secretary	19,776,228
Division of Aging	(926,000)
Division of Blind Services/Deaf/HH	(643,013)
Division of Child Development	(7,228,035)
Division of Education Services	(4,104,503)
Division of Facility Services	(748,170)
Division of Medical Assistance	(29,633,097)
Division of Mental Health	(7,707,015)
NC Health Choice	7,571,036
Division of Public Health	(6,595,770)
Division of Social Services	(14,183,025)
Division of Vocational Rehabilitation Services	(3,230,105)
Total	(47,651,469)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	(4,822,458)
Department of Commerce	
Commerce	(10,350,110)
Commerce State-Aid	5,085,000
NC Biotechnology Center	(627,047)

Rural Economic Development Center	(423,851)
Department of Environment and Natural Resources	
Environment and Natural Resources	(9,904,113)
Clean Water Management Trust Fund	(3,500,000)
Office of the Governor - Housing Finance Agency	(540,600)
Department of Labor	(951,725)
JUSTICE AND PUBLIC SAFETY	
Department of Correction	(50,910,108)
Department of Crime Control and Public Safety	(713,318)
Judicial Department	(10,828,966)
Judicial Department - Indigent Defense	8,419,130
Department of Justice	(2,847,391)
Department of Juvenile Justice and Delinquency Prevention	(13,569,384)
GENERAL GOVERNMENT	
Department of Administration	(5,620,309)
Office of Administrative Hearings	(233,742)
Department of State Auditor	(795,965)
Office of State Controller	(1,101,040)
Department of Cultural Resources	
Cultural Resources	(3,610,213)
Roanoke Island Commission	(151,222)
State Board of Elections	209,622
General Assembly	(2,654,234)
Office of the Governor	
Office of the Governor	(504,595)
Office of State Budget and Management	(300,057)
OSBM – Reserve for Special Appropriations	100,000
Department of Insurance	
Insurance	(1,882,104)
Insurance – Volunteer Safety Workers' Compensation	(2,500,000)
Office of Lieutenant Governor	(53,280)
Department of Revenue	(2,384,400)
Rules Review Commission	(9,981)

Department of Secretary of State	(345,281)
Department of State Treasurer	
State Treasurer	671,618
State Treasurer – Retirement for Fire and Rescue Squad Workers	(5,248,601)
TRANSPORTATION	
Department of Transportation	(2,490,841)
RESERVES, ADJUSTMENTS AND DEBT SERVICE	
Reserve for 2001 Compensation Increases	(4,247,868)
Reserve for State Health Plan	(12,621,872)
Reserve for Legislative, Judicial and Teachers' and State Employees' Retirement Rate Adjustment	(144,525,000)
Reserve for Teachers/Principals Step Increase	51,937,267
Reserve for Asst/Deputy Clerks/Magistrates Step Increase	1,980,700
Reserve for Employee Severance Compensation	5,000,000
Contingency and Emergency	0
Reserve for Salary Adjustments	0
Implementation of Recommendations of Governor's Efficiency Commission	(25,000,000)
Reserve for Management Flexibility	(41,500,000)
Reserve for Information Technology Rate Adjustment	(3,414,318)
Mental Health, Developmental Disabilities, and Substance Abuse Services Trust Fund	8,000,000
Ruth M Easterling Trust Fund for Children with Special Needs	1,000,000
Reserve to Implement HIPPA	2,000,000
Debt Service	
General Debt Service	(97,750,000)
Federal Reimbursement	0
TOTAL CURRENT OPERATIONS - GENERAL FUND	(463,954,969)

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham,
Redwine

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in adjusting the 2002-2003 fiscal year budget is shown below:

2002-2003

Beginning Unreserved Credit Balance	25,000,000
Revenues Based on Existing Tax Structure	12,793,950,000
Nontax Revenues	
Investment Income	115,300,000
Judicial Fees	111,300,000
Disproportionate Share	107,000,000
Insurance	46,600,000
Other Nontax Revenues	98,900,000
Highway Trust Fund Transfer	172,400,000
Highway Fund Transfer	15,300,000
Subtotal Nontax Revenues	666,800,000
Total General Fund Availability	13,485,750,000
Adjustments to Availability: 2002 Session	
IRC Conformity (Includes Pensions and Education Changes, Estate Tax Credit, Accelerated Depreciated)	15,800,000
Delay 2001 Tax Breaks (Standard Deduction/Marriage Penalty, Child Tax Credit)	51,700,000
Conform Business Income	70,000,000
Correct LLC Franchise Tax	20,000,000
Conform Gift Tax Indexing	(230,000)
Low Income Housing Credit	(2,200,000)
Repeal Reimbursements to Local Governments	333,400,000
Project Tax Collect	32,500,000
Highway Trust Fund – recurring inflationary adjustment	80,000,000
Highway Trust Fund Transfer – one-time transfer	125,000,000
Tobacco Settlement Trust Funds – divert MSA receipts from Tobacco Trust Fund	38,000,000
Tobacco Settlement Trust Funds – divert MSA receipts from Health & Wellness Trust Fund	40,000,000
Transfer of Cash from Trust and Special Funds	20,438,259
Adjustment to Transfer from Insurance Regulatory Fund	(1,282,104)
Reimbursement for Unauthorized Substance Tax Division, Department of Revenue	885,884
Nontax Revenue Offsets, Department of State Treasurer	671,618
Increase Collection Rates for Offender Fees	1,160,000
Fee Increases	38,180,000
Subtotal Adjustments to Availability: 2002 Session	864,023,657
Revised General Fund Availability for 2002-2003 Fiscal Year	14,349,773,657
Less: Total General Fund Appropriations for 2002-2003 Fiscal Year	(14,349,773,657)
Unappropriated Balance	0

SECTION 2.2.(b) Notwithstanding any other provision of law to the contrary and except as provided in subsections 2.2(c) and 2.2.(d) of this section, effective July 1, 2002, cash balances remaining in special funds on June 30, 2002, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) according to the schedule that follows. These funds shall be used to support General Fund appropriations for the 2002-2003 fiscal year.

Fund	Amount Transferred
Administrative Office of the Courts	
Budget Code, 22005, (Worthless Check Fund)	150,000
(Appellate Copying Fees)	275,000
Department of Environment and Natural Resources	
Budget Code 24300, Fund Code 2104 (ADM – Mooresville RO Vending)	472
Budget Code 24308, Fund Code 2105 (DEE - Env	
Educ Certification)	10,000
Budget Code 24300, Fund Code 2331 (DAQ Air Permits)	250,000
Budget Code 24300, Fund Code 2106 (DEH - Sleep Products)	300,000
Budget Code 24300, Fund Code 2754 (DEH GSWW	
System Account)	10,900
Budget Code 24310, Fund Code 2711 (DFR Forestry Fire Supp)	78,225
Budget Code 24310, Fund Code 2712 (DFR Forestry Restoration)	771,333
Budget Code 24308, Fund Code 2255 (DFR Special	
Air Operations)	6,759
Budget Code 24300, Fund Code 2610 (DLR Mineral Interest)	20,000
Budget Code 24300, Fund Code 2740 (DLR Dam	
Safety Account)	100,000
Budget Code 24300, Fund Code 2745 (DLR Mining Fees)	25,000
Budget Code 24300, Fund Code 2393 (DWM Septage Fees)	100,000
Budget Code 24308, Fund Code 2387 (DWM Hazardous	
Waste Fees)	68,189
Budget Code 24300, Fund Code 2341 (DWQ Water Permits)	1,000,000
Budget Code 24308, Fund Code 2465 (MSN Mus	
Nat Sci/Scientific Publicat)	3,177
Budget Code 24308, Fund Code 2515 (SWC Agric Waste	
Small Farms)	20,000
Budget Code 24308, Fund Code 2520 (SWC Animal Waste	
Cost Share)	500,000
Budget Code 64302, Fund Code 6710 (Natural Heritage	
Trust Fund)	3,287,582
Budget Code 24308, Fund Code 2525 (Neuse Animal	
Waste Cost Share)	366,335
Budget Code 24300, Fund Code 2221 (Bladen Lakes	
State Forest Fund)	440,000
Department of Commerce	
Budget Code 24600, Fund Code 2683 (Empl & Train	
Grants Prgm)	750,000
Budget Code 24600, Fund Code 2711 (Industrial	
Development Fund)	3,000,000
Budget Code 24600, Fund Code 2881 (ABC Commission)	500,000
Budget Code 24600, Fund Code 2882 (ABC Warehouse)	500,000
Department of Health and Human Services	
Budget Code 24470, Fund Code 2101 (Facility Finance Act)	95,000
Information Technology Services	
Budget Code 24668, Fund Code 2800 (E-Grant)	495,040
Department of Agriculture and Consumer Services	
Budget Code 23700, Fund Code 2103 (Livestock	

Acquisition Fund)	300,000
Budget Code 23701, Fund Code 2201 (Warehouse Investment Fund)	225,000
Budget Code 53750, Fund Code 5190 (State Fair Reserves and Transfers)	250,000
Budget Code 63700, Fund Code 6902 (Reforestation Fund)	23,915
Budget Code 63700, Fund Code 6105 (Forest Management Reserve)	50,000
Budget Code 53750, Fund Code 5100 (State Fair)	500,000
Department of Labor	
Budget Code 23800, Fund Code 2422 (Pre-Apprenticeship-PBC)	491,332
Department of Correction	
Budget Code 24502, (Inmate Canteen/Welfare Fund)	500,000
Budget Code 74500, Fund Code 7100 (Enterprise Spec Fund/ Prison Enterprises)	2,000,000
Office of the State Controller	
Budget Code 24172, (State Controller Special Reserve Account)	1,300,000
Budget Code 24160, Fund Code 2000 (Flexible Benefits Reserve)	1,400,000
Crime Control and Public Safety	
Budget Code 14900, Fund Code 1510 (2001-2002 Fran Carryforward)	275,000
Total Amount Transferred	\$20,438,259

SECTION 2.2.(c) Notwithstanding G.S. 113-36(d), two hundred twenty thousand dollars (\$220,000) of the cash balance remaining in the Bladen Lakes State Forest Fund (Budget Code 24300, Fund Code 2221) on July 1, 2002, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). An additional two hundred twenty thousand dollars (\$220,000) shall be transferred on April 1, 2003. These funds shall be used to support General Fund appropriations for the 2002-2003 fiscal year.

SECTION 2.2.(d) Section 2.2(f) of S.L. 2001-424 reads as rewritten:

"SECTION 2.2.(f) The transfer of cash from Department of Correction, Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code 19978 (Intra State Transfers) shall be increased by one million dollars (\$1,000,000), effective July 1, 2001, for the 2001-2002 fiscal year.

The transfer of cash from Department of Correction, Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code 19978 (Intra State Transfers) shall be increased by ~~five hundred thousand dollars (\$500,000), effective July 1, 2002, for the 2002-2003 fiscal year and for subsequent fiscal years.~~ two million five hundred thousand dollars (\$2,500,000), effective July 1, 2002, for the 2002-2003 fiscal year. Of the two million five hundred thousand dollar (\$2,500,000) increase for the 2002-2003 fiscal year, five hundred thousand dollars (\$500,000) is recurring."

SECTION 2.2.(e) When the Highway Trust Fund was created in 1989, the revenue from the sales tax on motor vehicles was transferred from the General Fund to the Highway Trust Fund. To offset this loss of revenue from the General Fund, the Highway Trust Fund was required to transfer one hundred seventy million dollars (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989 from the sales tax on motor vehicles. This transfer did not, however, make the General Fund whole after the transfer of the sales tax revenue because no provision has been

made to adjust the amount for the increased volume of transactions and increased vehicle prices. The additional eighty million dollars (\$80,000,000) transferred from the Highway Trust Fund to the General Fund by this act is an effort to recover a portion of the sales tax revenues that would have gone to the General Fund over the last 13 years.

SECTION 2.2.(f) Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2002-2003 fiscal year and for the 2003-2004 fiscal year is two hundred fifty million dollars (\$250,000,000).

SECTION 2.2.(g) There is transferred from the Highway Trust Fund to the General Fund the sum of one hundred twenty-five million dollars (\$125,000,000) for the 2002-2003 fiscal year. It is the intent of the General Assembly that the Highway Trust Fund shall be held harmless because of this transfer. The General Assembly shall transfer funds from the General Fund back to the Highway Trust Fund during fiscal years 2004-2005 through 2008-2009 including interest at the net rate of return generated by the State Treasurer's Short Term Investment Fund.

SECTION 2.2.(h) The General Assembly finds that over the last two fiscal years, the cost of the Medicaid program has increased over one billion dollars (\$1,000,000,000). The downturn in the economy has caused an unforeseeable increase in the number of persons eligible for the program. Even with the significant expansion funds appropriated for the increased costs, transfers of funds to meet obligations for the 2001-2002 fiscal year, and significant cost-savings measures imposed by the General Assembly and the Department of Health and Human Services, Medicaid will still need additional State funds next year to cover increased costs.

The General Assembly further finds that due to the downturn in the economy and the loss of jobs in various sectors of the economy, the State must undertake various economic initiatives.

Funds transferred pursuant to this section shall be used only for Medicaid and for economic initiatives.

Notwithstanding G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2002-2003 fiscal year, the sum of thirty-eight million dollars (\$38,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.

Notwithstanding G.S. 143-16.4(a1), of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2002-2003 fiscal year, the sum of forty million dollars (\$40,000,000) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.

Notwithstanding G.S. 147-86.30(c), the Health and Wellness Trust Fund Commission may transfer up to eighteen million dollars (\$18,000,000) from the Fund Reserve created in G.S. 147-86.30 to the Health and Wellness Trust Fund nonreserved funds to be expended in accordance with G.S. 147-86.30(d) during the 2002-2003 fiscal year.

SECTION 2.2.(i) The reimbursement from the Insurance Regulatory Fund to the General Fund includes an increase of six hundred thousand dollars (\$600,000) for the 2002-2003 fiscal year for the costs and expenses incurred by the Department of Justice as provided in Section 15.5 of this act.

SECTION 2.2.(j) G.S. 7A-11 reads as rewritten:

"§ 7A-11. Clerk of the Supreme Court; salary; bond; fees; oath.

The clerk of the Supreme Court shall be appointed by the Supreme Court to serve at its pleasure. The annual salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Supreme Court. The clerk may appoint

assistants in the number and at the salaries fixed by the Administrative Officer of the Courts. The clerk shall perform such duties as the Supreme Court may assign, and shall be bonded to the State, for faithful performance of duty, in the same manner as the clerk of the superior court, and in such amount as the Administrative Officer of the Courts shall determine. He shall adopt a seal of office, to be approved by the Supreme Court. A fee bill for services rendered by the clerk shall be fixed by rules of the Supreme Court, and all such fees shall be remitted to the State ~~treasury, except that charges to litigants for the reproduction of appellate records and briefs shall be fixed and administered as provided by rule of the Supreme Court.~~ treasury. Charges to litigants for the reproduction of appellate records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Clerk of the Supreme Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. Before entering upon the duties of his office, the clerk shall take the oath of office prescribed by law."

SECTION 2.2.(k) G.S. 7A-20(b) reads as rewritten:

"(b) Subject to approval of the Supreme Court, the Court of Appeals shall promulgate from time to time a fee bill for services rendered by the clerk, and such fees shall be remitted to the State ~~Treasurer, except that charges to litigants for the reproduction of appellate records and briefs shall be fixed and administered as provided by rule of the Supreme Court.~~ Treasurer. Charges to litigants for the reproduction of appellate records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Court of Appeals shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

SECTION 2.2.(l) Of the cash balance of any funds not remitted to the State Treasurer pursuant to G.S. 7A-11 and G.S. 7A-20(b) prior to the effective date of this act, only funds necessary for payroll and existing contractual obligations may be expended. The cash balance of these funds shall be transferred to the General Fund on July 1, 2002.

SECTION 2.2.(m) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2002-2003 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2002.

This subsection becomes effective June 30, 2002.

SECTION 2.2.(n) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2002-2003 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2002.

This subsection becomes effective June 30, 2002.

SECTION 2.2.(o) Of the funds carried forward from the 2001-2002 fiscal year for the Department of Crime Control and Public Safety to cover expenditures related to Hurricane Fran, Budget Code 14900, Fund Code 1510 Emergency Management, the sum of two hundred seventy-five thousand dollars (\$275,000) shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.

SECTION 2.2.(p) General Fund availability generated by subsections (c), (d), (l), and (o) of this section is shown in special funds transfers made in subsection (b) of this section.

SECTION 2.2.(q) For fiscal year 2002-2003 only, State departments and agencies may transfer General Fund appropriations between personal service and nonpersonal service line items provided that it has been approved by the department or agency head and has received prior approval from the Office of State Budget and Management. Personal service funds may be transferred and used for nonpersonal

service items in certain instances. Specifically, personal service funds may only be used to pay for costs related to continuing operations and shall not be used to expand existing programs or to establish new programs.

State departments and agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days on all transfers from personal service line items to nonpersonal service line items.

General Fund salary and related benefit appropriations for State departments and agencies that are reduced or eliminated in this act shall not be replaced by other budgeted line items supported by General Fund appropriations. Nonpersonal service funds or lapsed salary funds shall not be used to establish new permanent employee positions or to raise the salary of existing employees.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

HIGHWAY FUND APPROPRIATIONS

SECTION 3.1. 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, 2003, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund appropriations for the 2002-2003 fiscal year.

Current Operations - Highway Fund	2002-2003
Administration	(362,232)
Operations	-
Construction and Maintenance	
a. Construction	
(01) Primary Construction	-
(02) Secondary Construction	(1,887,000)
(03) Urban Construction	7,000,000
(04) Access and Public Service Roads	-
(05) Contingency Construction	5,000,000
(06) Spot Safety Construction	-
b. State Funds to Match Federal Highway Aid	-
c. State Maintenance	13,823,411
d. Ferry Operations	-
e. Capital Improvements	-
f. State Aid to Municipalities	(1,887,000)
g. State Aid for Public Transportation and Railroads	14,350,000
h. OSHA - State	-
Governor's Highway Safety Program	-
Division of Motor Vehicles	-
Reserves and Transfers	(6,039,551)
GRAND TOTAL HIGHWAY FUND	\$ 29,997,628

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund appropriations availability used in developing modifications to the 2002-2003 Highway Fund budget contained in this act is shown below:

2002-2003

Beginning Credit Balance	\$41,300,000
Estimated Revenue	1,276,600,000
TOTAL HIGHWAY FUND AVAILABILITY	\$1,317,900,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the Highway Trust 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, 2003, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 2002-2003 fiscal year.

Current Operations and Expansion - Highway Trust Fund	2002-2003
Intrastate System	(159,218,286)
Secondary Roads	(18,065,569)
Urban Loops	(64,381,244)
Aid to Municipalities	(16,705,712)
Program Administration	(4,073,189)
Transfer to General Fund	205,000,000
 Grand Total/Highway Trust Fund	 (57,444,000)

PART V. BLOCK GRANTS

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2003, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 15,266,973
02. Limited Purpose Agencies	848,165
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165

TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 16,963,303

SOCIAL SERVICES BLOCK GRANT

01. County departments of social services (Transfer from TANF - \$4,500,000)	\$ 27,095,289
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	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging - Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services - Easter Seals Society	116,779
15.	UNC-CH CARES Program for training and consultation services	247,920
16.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
17.	Division of Social Services - Child Caring Agencies	1,500,000
18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
19.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
20.	Division of Facility Services -	

Mental Health Licensure	213,128
TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 52,852,407
LOW-INCOME ENERGY BLOCK GRANT	
01. Energy Assistance Programs	\$ 11,395,026
02. Crisis Intervention	6,598,934
03. Administration	2,459,510
04. Weatherization Program	3,457,189
05. Department of Administration - N.C. State Commission of Indian Affairs	45,189
06. Heating Air Repair and Replacement Program	1,613,355
TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 25,569,203
MENTAL HEALTH SERVICES BLOCK GRANT	
01. Provision of community-based services for severe and persistently mentally ill adults	\$ 5,442,798
02. Provision of community-based services to children	2,513,141
03. Comprehensive Treatment Services Program for Children	1,500,000
04. Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 10,239,850
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 and Drug Abuse Treatment Centers	\$ 15,401,711
02. Continuation of services for pregnant women and women with dependent children	8,069,524
03. Continuation of services to IV drug abusers and others at risk for HIV diseases	4,616,378
04. Provision of services to children	

	and adolescents	7,740,611
05.	Juvenile Services - Family Focus	851,156
06.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
07.	Allocation to the Division of Public Health for HIV/STD Prevention by County Health Departments	209,576
08.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
09.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		\$ 39,907,022
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	\$150,180,415
02.	Quality and availability initiatives	16,496,620
03.	Administrative expenses	6,550,000
04.	Transfer from TANF Block Grant for child care subsidies	72,812,189
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		\$246,039,224
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	\$129,396,275
02.	Work First County Block Grants	92,018,855
03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	72,812,189
04.	Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse screening, diagnostic, and support treatment services and drug testing	400,000
05.	Child Care Subsidies for TANF Recipients	26,621,241
06.	County Child Protective Services, Foster Care, and Adoption Workers	2,727,550

07.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
08.	Support Our Students - Department Juvenile Justice and Delinquency Prevention	1,425,000
09.	Residential Substance Abuse Services for Women With Children	1,475,142
10.	Domestic Violence Services for Work First Families	900,000
11.	After-School Services for At-Risk Children	1,425,000
12.	Division of Social Services - Administration	400,000
13.	Child Welfare workers and services for local departments of social services	7,654,841
14.	Child Welfare Training	1,600,000
15.	DSS Evaluation	500,000
16.	SACWIS Payback	4,643,454
17.	TANF Automation Projects	1,200,000

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT \$349,699,547

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mothers/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	2,012,102
03.	Services to Children With Special Health Care Needs	5,078,647

TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT \$ 16,928,823

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Statewide Health Promotion Programs	\$3,171,651
02.	Rape Crisis/Victims' Services Program - Council for Women	197,112
03.	HIV/AIDS Prevention Activities Coordination	111,159
04.	Transfer from Social Services Block Grant - HIV/AIDS education, counseling, and testing	145,819
05.	Office of Minority Health	159,459
06.	Administrative Costs	108,546
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,893,746

SECTION 5.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below 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 for specified purposes in any calculations of reductions to the Social Services Block Grant.

If the United States Congress reduces the amount of TANF funds below the amounts appropriated in this section after the effective date of this act, then the Department shall allocate the decrease in funds after considering any underutilization of the budget and the effectiveness of the current level of services. Any TANF Block Grant fund changes shall be reported to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grants by the Department of Health and Human Services after considering the effectiveness of the current level of services.

SECTION 5.1.(c) Increases in Federal Fund Availability. – 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, with the approval of the Office of State Budget and Management, 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.

SECTION 5.1.(d) Changes to the budgeted allocations to the block grants appropriated in this act and new allocations from the block grants not specified in this act shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to the change and shall be reported immediately to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(e) The Department of Health and Human Services may allow no-cost contract extensions for up to six months for nongovernmental grant recipients under the TANF Block Grant.

SECTION 5.1.(f) 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 2002-2003 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 of Public Instruction 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 of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

The Department of Health and Human Services shall contract for the follow-up testing involved with the Newborn Screening Program. The Department may contract for these services with an entity within or outside of the State; however, the Department may only contract with an out-of-state entity if it can be demonstrated that there is a cost-savings associated with contracting with the out-of-state entity. The contract amount shall not exceed twenty-five thousand dollars (\$25,000). The amount of the contract shall be covered by funds in the Maternal and Child Health Block Grant.

SECTION 5.1.(g) The Department of Health and Human Services, Division of Social Services, shall do the following:

- (1) Continue the current evaluation of the Work First Program to assess former recipients' earnings, barriers to advancement to economic self-sufficiency, utilization of community support services, and other longitudinal employment data. Assessment periods shall include six and 18 months following closure of the case.
- (2) Continue the current evaluation of the Work First Program to profile the State's child-only caseload to include indicators of economic and social well-being, academic and behavioral performance, demographic data, description of living arrangements including length of placement out of the home, social and other human services provided to families, and other information needed to assess the needs of the child-only Work First Family Assistance clients and families.

The Division of Social Services may use up to five hundred thousand dollars (\$500,000) in TANF funds to complete the evaluation of Work First.

The Department of Health and Human Services shall make a report on its progress in complying with this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than December 1, 2002.

SECTION 5.1.(h) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this act in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2002-2003 fiscal year shall be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

SECTION 5.1.(i) The sum of three hundred thousand dollars (\$300,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used to develop and implement a Medical Child Care Pilot open to children throughout the State.

SECTION 5.1.(j) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 5.1.(k) The sum of four hundred thousand dollars (\$400,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2002-2003 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(l) The sum of one million four hundred seventy-five thousand one hundred forty-two dollars (\$1,475,142) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2002-2003 fiscal year shall be used to provide regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children. These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

In order to expedite the expansion of these services, the Secretary of the Department of Health and Human Services may enter into contracts with service providers.

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2002, and March 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

- (1) The number and location of additional beds created.
- (2) The types of facilities established.
- (3) The delineation of roles and responsibilities at the State and local levels.
- (4) Demographics of the women served, the number of women served, and the cost per client.
- (5) Demographics of the children served, the number of children served, and the services provided.
- (6) Job placement services provided to women.
- (7) A plan for follow-up and evaluation of services provided with an emphasis on outcomes.
- (8) Barriers identified to the successful implementation of the expansion.
- (9) Identification of other resources needed to appropriately and efficiently provide services to Work First recipients.
- (10) Other information as requested.

SECTION 5.1.(m) The sum of one million four hundred twenty-five thousand dollars (\$1,425,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2002-2003 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 5.1.(n) The sum of nine hundred thousand dollars (\$900,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2002-2003 fiscal year shall be

used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2002. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars (\$5,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2002, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2002. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(o) The sum of one million four hundred twenty-five thousand dollars (\$1,425,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2003, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(p) The sum of seven million six hundred fifty-four thousand eight hundred forty-one dollars (\$7,654,841) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2002-2003 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 5.1.(q) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the

Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2002-2003 fiscal year and the sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2002-2003 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

SECTION 5.1.(r) The sum of one million six hundred thousand dollars (\$1,600,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2002-2003 shall be used to support various child welfare training projects as follows:

- (1) Provide a regional training center in southeastern North Carolina.
- (2) Support the Masters Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
- (3) Provide training for residential child care facilities.
- (4) Provide for various other child welfare training initiatives.

SECTION 5.1.(s) If funds appropriated through the Child Care and Development Fund 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 child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SECTION 5.1.(t) The sum of one hundred eleven thousand one hundred fifty-nine dollars (\$111,159) appropriated in this section in the Preventive Health Services Block Grant to the Department of Health and Human Services for the 2002-2003 fiscal year for HIV/AIDS Prevention Activities shall be used to enhance activities for HIV/AIDS awareness and education within the Division of Public Health. The position shall be responsible for all planning, programming, and budgeting for compliance with this subsection. These prevention activities shall be targeted to the general public and programs identified in this subsection and shall not be used to augment the current grant programs that target high-risk populations through the community-based organizations.

It is the intention of the General Assembly to focus current resources and activities to strengthen and enhance prevention and intervention programs directed at the reduction of HIV/AIDS. The Department shall coordinate efforts to enhance awareness, education, and outreach with the North Carolina AIDS Advisory Council, North Carolina Minority Health Advisory Council, representatives of faith communities, representatives of nonprofit agencies, and other State agencies.

The Department of Health and Human Services shall coordinate and ensure the implementation of developmentally appropriate education, awareness, and outreach campaigns to comply with this subsection in the following programs and services:

- (1) Division of Social Services programs and services:
 - a. Domestic Violence Prevention and Awareness.
 - b. Domestic Violence Services for Work First Families.
 - c. After School Services for At-Risk Children.
 - d. Work First Boys/Girls Clubs.
- (2) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services programs and services:
 - a. Substance Abuse Services for Juveniles.
 - b. Residential Substance Abuse Services for Women and Children.
- (3) Division of Public Health programs and services:
 - a. Teen Pregnancy Prevention Activities.
 - b. Out-of-Wedlock Births.
 - c. School Health Program.
 - d. High-Risk Maternity Clinic Services.

- e. Perinatal Education and Training.
- f. Public Information and Education.
- g. Technical Assistance to Local Health Departments.
- (4) Other divisions, services, and programs:
 - a. Family Support Services.
 - b. Family Resource Centers.
 - c. Independent Living Services.
 - d. Residential schools and facilities.
 - e. Other programs, services, or contracts that provide education and awareness services to children and families.

Other State agencies, including the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Administration, shall ensure the incorporation of developmentally appropriate HIV/AIDS education, awareness, and outreach information into their programs.

The Department shall report on the implementation of this subsection not later than May 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(u) The sum of four hundred thirty-eight thousand dollars (\$438,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services shall be used to purchase services at maternity homes throughout the State.

SECTION 5.1.(v) The Department of Health and Human Services, Division of Social Services, may use up to one million two hundred thousand dollars (\$1,200,000) in unexpended TANF funds previously allocated for the Business Process Reengineering Project in the 2001-2002 fiscal year in the 2002-2003 fiscal year for TANF automation incentives, such as data warehouse, Electronic Fund Transfer, and NC FAST. The Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2003, on the expenditure of these funds.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

NER BLOCK GRANT FUNDS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2003, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	\$1,000,000
02.	Urgent Needs and Contingency	1,000,000
03.	Scattered Site Housing	13,100,000
04.	Economic Development	8,710,000
05.	Community Revitalization	13,500,000
06.	State Technical Assistance	450,000
07.	Housing Development	2,100,000
08.	Infrastructure	5,140,000

TOTAL COMMUNITY DEVELOPMENT
BLOCK GRANT - 2002 Program Year

\$45,000,000

SECTION 5.2.(b) Decreases in Federal Fund Availability. – 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.

SECTION 5.2.(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.

SECTION 5.2.(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 one million dollars (\$1,000,000) may be used for State administration; up to one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million one hundred thousand dollars (\$13,100,000) may be used for Scattered Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; not less than thirteen million five hundred thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million one hundred thousand dollars (\$2,100,000) may be used for Housing Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. 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.

SECTION 5.2.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

PART VI. GENERAL PROVISIONS

Requested by: Senators Dalton, Lucas, Garrou, Rand, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

DEDUCTION FLEXIBILITY

SECTION 6.4.(a) G.S. 143-3.3(g) reads as rewritten:

"(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An employee of the State or any of its institutions, departments, bureaus, agencies or commissions, or any of its local boards of education or community colleges, 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 each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association.

An employee of any local board of education who is a member of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, may authorize in writing the periodic deduction each payroll period from the employee's salary or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the employees' association.

~~The~~ An authorization under this subsection shall remain in effect until revoked by the employee. A plan of payroll deductions pursuant to this subsection for employees of the State and other association members 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. This subsection does not apply to county or municipal governments or any local governmental unit, except for local boards of education."

SECTION 6.4.(b) G.S. 128-38.3 reads as rewritten:

"§ 128-38.3. Deduction for payment to certain employees' associations allowed.

Any member beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of employers as defined in G.S. 128-21(11), may authorize, in writing, the periodic deduction from the member's beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 6.4.(c) G.S. 135-18.8 reads as rewritten:

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

Any member beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 6.4.(d) Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-4.32. Deduction for payments to certain employees' or retirees' associations allowed.

Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 6.4.(e) Article 4 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-75. Deduction for payments to certain employees' or retirees' associations allowed.

Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 6.4.(f) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations allowed.

Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired 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' or retirees' 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' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 6.4.(g) G.S. 127A-40 is amended by adding a new subsection to read:

"(h1) Any member or former member of the North Carolina national guard who is qualified for benefits under this section and who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired 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' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this subsection shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

Requested by: Senators Plyler, Odom, Lee; Representatives McComas, Smith, Preston, Easterling, Oldham, Redwine

REPEAL PORTS RAILWAY COMMISSION/TRANSFER TO STATE PORTS AUTHORITY

SECTION 6.6.(a) Part 11 of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-469 through G.S. 143B-469.3, is repealed.

SECTION 6.6.(b) G.S. 120-123(25) is repealed.

SECTION 6.6.(c) G.S. 143B-454(a)(4) reads as rewritten:

"(4) Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches thereto, and the construction of beltline roads and highways and bridges and causeways thereon, and other bridges and causeways necessary or useful in connection therewith, and shipyards, shipping facilities, and transportation facilities incident thereto and useful or convenient for the use thereof, ~~excluding terminal railroads;~~ and to acquire, construct, and maintain, but not operate, such rail facilities as may be necessary or useful in connection with the operation of the State Ports, provided that nothing in this subdivision shall be construed as requiring or allowing the North Carolina State Ports Authority to become a carrier by rail subject to the federal laws regulating those carriers;"

SECTION 6.6.(d) Within 30 days of the date this section becomes law, the North Carolina Ports Railway Commission shall provide the North Carolina State Ports Authority with a complete list of its assets and liabilities. All of the assets, real and personal, tangible and intangible, and all of the liabilities, including contractual obligations, of the North Carolina Ports Railway Commission are transferred to the North Carolina State Ports Authority. If and to the extent that such transfers require the execution of any documents or instruments of transfer by the North Carolina Ports

Railway Commission, those documents may be executed by the current officers and members of the Commission and shall be executed within 60 days of the date this section becomes law.

SECTION 6.6.(e) As part of a plan to reorganize and consolidate rail operations at the State Ports, the North Carolina State Ports Authority may sell or transfer the Beaufort and Morehead Railway, Inc., or any part thereof or interest therein, to a terminal switching or short line railroad company, or to the North Carolina Railroad Company, on such terms and conditions as the parties may agree to.

SECTION 6.6.(f) The Attorney General within 45 days of this section becoming law shall render an opinion as to whether or not subsections (a) through (e) of this section will subject the State Ports Authority to status as a common carrier subject to the Railway Labor Act. Subsections (a) through (e) of this section become effective only if an opinion is issued that it does not subject the State Ports Authority to status as a common carrier subject to the Railway Labor Act, and in such case subsections (a) through (e) of this section become effective upon the issuance of the opinion. In lieu of subsections (a) through (e) of this section, if the North Carolina State Ports Authority finds that the transfer of any stock owned by the North Carolina Ports Railway Commission to the North Carolina State Ports Authority will accomplish the same end as the transfer of assets of the North Carolina Ports Railway Commission, it may order such transfer if the Attorney General issues an opinion it does not subject the State Ports Authority to status as a common carrier subject to the Railway Labor Act, and in such case the transfer becomes effective 60 days after it is ordered.

Requested by: Senators Plyler, Odom, Lee; Representatives Baddour, Easterling, Oldham, Redwine

PROCEDURE BEFORE REDUCING APPROPRIATIONS TO A SCHOOL ADMINISTRATIVE UNIT

SECTION 6.7.(a) G.S. 159-13(b)(9) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

- ...
- (9) Appropriations made to a school administrative unit by a county may not be reduced after the budget ordinance is adopted, unless the board of education of the administrative unit agrees by resolution to a reduction, or unless a general reduction in county expenditures is required because of prevailing economic conditions. Before a board of county commissioners may reduce appropriations to a school administrative unit as part of a general reduction in county expenditures required because of prevailing economic conditions, it must do all of the following:
- a. Hold a public meeting at which the school board is given an opportunity to present information on the impact of the reduction.
 - b. Take a public vote on the decision to reduce appropriations to a school administrative unit."

SECTION 6.7.(b) This section is effective when this act becomes law.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Easterling, Oldham, Redwine

SENIOR PRESCRIPTION DRUG ACCESS PROGRAM

SECTION 6.8.(a) Notwithstanding G.S. 147-86.30, the Health and Wellness Trust Fund Commission may for the fiscal year 2002-2003 expend not more than three million dollars (\$3,000,000) of the funds reserved pursuant to G.S. 147-86.30(c) to develop and implement a Senior Prescription Drug Access Program. As used in this section, the term "senior" means an individual age 65 years and older. The purpose of

the Program is to reduce costs of and improve access to and use of prescription drugs by:

- (1) Providing one-on-one assistance to seniors and low-income citizens in accessing public and private prescription drug assistance programs.
- (2) Making available pharmacist evaluators to review all prescriptions and to provide face-to-face counseling for seniors to promote compliance and identify potential adverse effects from interactions among the prescribed drugs.
- (3) Utilizing software currently licensed by the Department of Health and Human Services to guide patients through the complexities of all drug coverage options, including drug acquisition through low-cost or discount drug programs provided through manufacturer's card programs, and by government programs.

Drug acquisition services under the Program shall be available to senior citizens and to low-income citizens eligible for assistance under these public and private prescription drug programs. Counseling services provided by the Program shall be available to senior citizens age 65 and older. There shall be no fee for Program medication counseling services to seniors who are Medicaid recipients and seniors enrolled in Carolina CARxES. The Commission may authorize a reasonable fee to be charged by the pharmacist evaluator to other seniors using medication counseling services, provided that the fee is charged on a sliding scale based on individual or family income. In no event may the fee exceed the actual cost of the service provided. The Commission shall consult with other State agencies and public and private entities to avoid duplication and enhance cooperation and collaboration in providing Program services. In allocating funds under the Program, the Commission shall consider diversity of populations served, geographic representation, and increasing community capacity to respond to health needs. The Commission may phase in the availability of services such that initially all geographic regions of the State have services available.

SECTION 6.8.(b) In developing and implementing the Senior Prescription Drug Access Program, the Commission may do the following:

- (1) Establish a centralized database with linkages to Medicaid databases to enable review of each participant's prescription drug regimen and to ensure quality of services, quality of care, and cost-effectiveness. The database shall comply with all State and federal privacy protection requirements and shall be accessible only to participating pharmacists, primary care physicians, and case managers.
- (2) Use reserved funds authorized under this section to contract with public and private entities to provide prescription drug assistance services.
- (3) Use reserved funds authorized under this section to award grants to applicants eligible under G.S. 147-86.31 to receive grant funds. Grant funds may be used to subsidize costs of hiring and training staff to operate drug acquisition software.

SECTION 6.8.(c) The Commission shall provide for ongoing evaluation of the Program to measure its usage and effectiveness. The Commission shall include in its annual report required under G.S. 147-86.35 the use of funds for and activities of the Senior Prescription Drug Access Program and the results of its Program evaluation. The report shall include data on the number of persons who received services, fees authorized, and the geographic distribution of Program services.

Requested by: Senators Plyler, Odom, Lee; Representatives Earle, Nye, Alexander, Easterling, Oldham, Redwine

UNIFORM PROVIDER CREDENTIALING BY HEALTH INSURANCE PLANS

SECTION 6.9.(a) G.S. 58-3-230(a) reads as rewritten:

"(a) An insurer that provides a health benefit plan and that credentials providers for its networks shall maintain a process to assess and verify the qualifications of a licensed health care practitioner, or applicant for licensure as a health care practitioner, within 60 days of receipt of a completed provider credentialing application form approved by the Commissioner. When a health care practitioner joins a practice that is under contract with an insurer to participate in a health benefit plan, the effective date of the health care practitioner's participation in the health benefit plan network shall be the date the insurer approves the practitioner's credentialing application."

SECTION 6.9.(b) This section becomes effective October 1, 2002.

Requested by: Senators Weinstein, Martin of Pitt, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

SALE OF UNDERUTILIZED STATE-OWNED AIRCRAFT

SECTION 6.10.(a) Any department of State government possessing State-owned operational aircraft that are not being used for spare parts and have not been used for the intended purpose a minimum of two times during the 2001-2002 fiscal year shall sell that aircraft during the 2002-2003 fiscal year pursuant to the provisions of Article 3A of Chapter 143 of the General Statutes or by other procedures based upon competitive bidding that the head of the department finds to be acceptable for this purpose.

SECTION 6.10.(b) The Department of Commerce shall sell its Bell 206 helicopter during the 2002-2003 fiscal year. The proceeds of this sale shall be credited to the Department of Commerce as a nontax receipt.

SECTION 6.10.(c) Proceeds of the sale of aircraft pursuant to subsection (a) of this section shall be deposited in the General Fund.

Requested by: Senators Plyler, Odom, Lee; Representatives Pope, Easterling, Oldham, Redwine

TERMINATE HURRICANE FRAN ACCOUNT

SECTION 6.11A. Effective June 30, 2003, Executive Order #99 as amended, dated September 5, 1996, is terminated. All funds in the Hurricane Fran Account that are not contractually obligated on June 30, 2003, shall be credited to the Savings Reserve Account.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

TREASURER/REPORTING REQUIREMENTS

SECTION 6.12. G.S. 147-69.3 reads as rewritten:

"§ 147-69.3. Administration of State Treasurer's investment programs.

(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2.

(b) Any official, board, commission, other public authority, local government, school administrative unit, local ABC board, or community college of the State having custody of any funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of those funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments, provided that any occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer. In the absence of specific statutory provisions to the contrary, any of those funds may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from any depositor eligible under this subsection, the State Treasurer may authorize

moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), the total return earned on investments shall accrue pro rata to the fund whose assets are invested according to the formula prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer has full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may reinvest the proceeds from the sale of those securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer, such costs to be paid from each program, and to the extent not otherwise chargeable directly to the income or assets of the specific investment program or pooled investment vehicle, shall be deposited with the State Treasurer as a General Fund nontax revenue. The cost of administration, management, and operation of investment programs established pursuant to this section and not directly paid from the income or assets of such a specific investment program shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act.

(g) The State Treasurer is authorized to retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs created pursuant to this section.

(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on the financial condition of each investment program created pursuant to this section. A copy of each report shall be submitted within 30 days following the end of the fiscal year to the official, institution, board, commission or other agency whose funds are invested, the State Auditor, ~~and~~ the Advisory Budget ~~Commission, Commission, and the chairs of the Finance Committees of the House of Representatives and the Senate.~~

(i) The State Treasurer shall report at least twice a year to the General Assembly, through the Finance Committees of the House of Representatives and the Senate, on the investment programs created under this section. The Treasurer shall present the reports to a joint meeting of the Finance Committees. The chairs of the Finance Committees may receive the reports and call the meetings. The Finance Committees may meet during the interim as necessary to hear the reports from the State Treasurer. The State Treasurer's annual report and presentation to the General Assembly Finance Committees shall include all of the following:

(1) ~~a~~ A full and complete statement of all moneys invested by virtue of the provisions of G.S. 147-69.1 and ~~G.S. 147-69.2, the G.S. 147-69.2.~~

(2) The nature and character of investments therein, and the investments.

(3) The revenues derived ~~therefrom~~ from the investments.

(4) The costs of administering, managing, and operating the investment programs, including the recapture of any investment commissions.

(5) A statement of the investment policies for the revenues invested.

(6) Any other information that may be helpful in understanding the State Treasurer's investment policies and investment results.

(7) Any other information requested by the Finance Committees.

(j) Subject to the provisions of G.S. 147-69.1(d), the State Treasurer shall adopt any rules necessary to carry out the provisions of this section."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Baddour, Oldham, Redwine

RUTH M. EASTERLING TRUST FUND FOR CHILDREN WITH SPECIAL NEEDS

SECTION 6.13. Whereas, Representative Ruth M. Easterling has served as an advocate for the children of the State for over 25 years as a member of the General Assembly, there is established the "Ruth M. Easterling Trust Fund for Children With Special Needs". The purpose of the Trust Fund is to fund services for children with special needs that are not currently provided with State funds. The Trust Fund shall be used to:

- (1) Provide respite services for adoptive children, for children in foster care, and for other children with special needs at risk of out-of-home placement.
- (2) Pay for special services to, and special equipment for, children with special needs when there is no other source for payment, including, but not limited to, surgical repair of congenital anomalies and the purchase of mobility equipment.
- (3) Provide training to parents and caregivers in the unique care needs of children with special needs.

The Secretary of Health and Human Services shall adopt rules to implement this section. By March 1, 2003, the Secretary shall report to the Chairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on the use of the Trust Fund.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

AUTHORIZE ONE-TIME BOND REFUNDING

SECTION 6.14. By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding obligations for the purpose of refunding outstanding obligations to implement the one-time debt service savings reflected in Section 2.1 of this act. The refunding shall be in accordance with the provisions of G.S. 142-29.2, 142-29.3, 142-29.4, 142-29.6, and 142-29.7 of the State Refunding Bond Act.

PART VII. PUBLIC SCHOOLS

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2002-2003 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2002-2003 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2002, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(b) For the 2002-2003 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

**2002-2003 MONTHLY SALARY SCHEDULE
"A" TEACHERS**

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,525	N/A
1	\$2,567	N/A
2	\$2,611	N/A
3	\$2,764	\$3,096
4	\$2,904	\$3,252
5	\$3,036	\$3,400
6	\$3,164	\$3,544
7	\$3,266	\$3,658
8	\$3,314	\$3,712
9	\$3,362	\$3,765
10	\$3,412	\$3,821
11	\$3,461	\$3,876
12	\$3,511	\$3,932
13	\$3,561	\$3,988
14	\$3,614	\$4,048
15	\$3,667	\$4,107
16	\$3,722	\$4,169
17	\$3,777	\$4,230
18	\$3,834	\$4,294
19	\$3,892	\$4,359
20	\$3,950	\$4,424
21	\$4,011	\$4,492
22	\$4,072	\$4,561
23	\$4,136	\$4,632
24	\$4,200	\$4,704
25	\$4,264	\$4,776
26	\$4,330	\$4,850
27	\$4,398	\$4,926
28	\$4,467	\$5,003
29	\$4,538	\$5,083
30+	\$4,538	\$5,083

**2002-2003 MONTHLY SALARY SCHEDULE
"M" TEACHERS**

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,778	N/A
1	\$2,824	N/A
2	\$2,872	N/A
3	\$3,040	\$3,405
4	\$3,194	\$3,577
5	\$3,340	\$3,741

6	\$3,480	\$3,898
7	\$3,593	\$4,024
8	\$3,645	\$4,082
9	\$3,698	\$4,142
10	\$3,753	\$4,203
11	\$3,807	\$4,264
12	\$3,862	\$4,325
13	\$3,917	\$4,387
14	\$3,975	\$4,452
15	\$4,034	\$4,518
16	\$4,094	\$4,585
17	\$4,155	\$4,654
18	\$4,217	\$4,723
19	\$4,281	\$4,795
20	\$4,345	\$4,866
21	\$4,412	\$4,941
22	\$4,479	\$5,016
23	\$4,550	\$5,096
24	\$4,620	\$5,174
25	\$4,690	\$5,253
26	\$4,763	\$5,335
27	\$4,838	\$5,419
28	\$4,914	\$5,504
29	\$4,992	\$5,591
30+	\$4,992	\$5,591

SECTION 7.1.(c) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 7.1.(d) Effective for the 2002-2003 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 7.1.(e) Effective for the 2002-2003 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 7.1.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2002-2003 school year, the Director of the Budget shall transfer from Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2002-2003 fiscal year funds necessary to implement the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2002-2003 fiscal year, commencing July 1, 2002, is as follows:

**2002-2003
PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES**

CLASSIFICATION

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,226	—	—	—	—
5	\$3,373	—	—	—	—
6	\$3,515	—	—	—	—
7	\$3,629	—	—	—	—
8	\$3,681	\$3,681	—	—	—
9	\$3,735	\$3,735	—	—	—
10	\$3,791	\$3,791	\$3,845	—	—
11	\$3,845	\$3,845	\$3,901	—	—
12	\$3,901	\$3,901	\$3,956	\$4,015	—
13	\$3,956	\$3,956	\$4,015	\$4,074	\$4,135
14	\$4,015	\$4,015	\$4,074	\$4,135	\$4,197
15	\$4,074	\$4,074	\$4,135	\$4,197	\$4,259
16	\$4,135	\$4,135	\$4,197	\$4,259	\$4,324
17	\$4,197	\$4,197	\$4,259	\$4,324	\$4,388
18	\$4,259	\$4,259	\$4,324	\$4,388	\$4,456
19	\$4,324	\$4,324	\$4,388	\$4,456	\$4,524
20	\$4,388	\$4,388	\$4,456	\$4,524	\$4,596
21	\$4,456	\$4,456	\$4,524	\$4,596	\$4,666
22	\$4,524	\$4,524	\$4,596	\$4,666	\$4,737
23	\$4,596	\$4,596	\$4,666	\$4,737	\$4,811
24	\$4,666	\$4,666	\$4,737	\$4,811	\$4,886
25	\$4,737	\$4,737	\$4,811	\$4,886	\$4,963
26	\$4,811	\$4,811	\$4,886	\$4,963	\$5,042
27	\$4,886	\$4,886	\$4,963	\$5,042	\$5,143

28	\$4,963	\$4,963	\$5,042	\$5,143	\$5,246
29	\$5,042	\$5,042	\$5,143	\$5,246	\$5,351
30	\$5,143	\$5,143	\$5,246	\$5,351	\$5,458
31	\$5,246	\$5,246	\$5,351	\$5,458	\$5,567
32	—	\$5,351	\$5,458	\$5,567	\$5,678
33	—	—	\$5,567	\$5,678	\$5,792
34	—	—	\$5,678	\$5,792	\$5,908
35	—	—	—	\$5,908	\$6,026
36	—	—	—	\$6,026	\$6,147
37	—	—	—	—	\$6,270

**2002-2003
PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES**

CLASSIFICATION

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	\$4,259	—	—	—
15	\$4,324	—	—	—
16	\$4,388	\$4,456	—	—
17	\$4,456	\$4,524	\$4,666	—
18	\$4,524	\$4,596	\$4,737	\$4,811
19	\$4,596	\$4,666	\$4,811	\$4,886
20	\$4,666	\$4,737	\$4,886	\$4,963
21	\$4,737	\$4,811	\$4,963	\$5,042
22	\$4,811	\$4,886	\$5,042	\$5,143
23	\$4,886	\$4,963	\$5,143	\$5,246
24	\$4,963	\$5,042	\$5,246	\$5,351
25	\$5,042	\$5,143	\$5,351	\$5,458
26	\$5,143	\$5,246	\$5,458	\$5,567
27	\$5,246	\$5,351	\$5,567	\$5,678
28	\$5,351	\$5,458	\$5,678	\$5,792
29	\$5,458	\$5,567	\$5,792	\$5,908
30	\$5,567	\$5,678	\$5,908	\$6,026
31	\$5,678	\$5,792	\$6,026	\$6,147
32	\$5,792	\$5,908	\$6,147	\$6,270
33	\$5,908	\$6,026	\$6,270	\$6,395
34	\$6,026	\$6,147	\$6,395	\$6,523
35	\$6,147	\$6,270	\$6,523	\$6,653
36	\$6,270	\$6,395	\$6,653	\$6,786
37	\$6,395	\$6,523	\$6,786	\$6,922
38	\$6,523	\$6,653	\$6,922	\$7,060
39	—	\$6,786	\$7,060	\$7,201
40	—	\$6,922	\$7,201	\$7,345
41	—	—	\$7,345	\$7,492

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers

Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and the 1999-2000 school year for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 7.2.(f) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

SECTION 7.2.(g) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(h)

- (1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.
- (2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 7.2.(i) Participants in an approved full-time Masters in School Administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program.

Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal Fellows Program or a school of education where the intern participates in a full-time Masters in School Administration.

SECTION 7.2.(j) During the 2002-2003 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

LITIGATION RESERVE FUNDS

SECTION 7.3. The State Board of Education may expend up to five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

CHILDREN WITH DISABILITIES

SECTION 7.4. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand six hundred eighty-six dollars and fifty cents (\$2,686.50) per child for a maximum of 161,845 children for the 2002-2003 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2002-2003 allocated average daily membership in the local school administrative unit.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.5. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of eight hundred eighty-eight dollars (\$888.00) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2002-2003 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 53,075 children for the 2002-2003 school year.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.6. Section 28.32 of S.L. 2001-424 reads as rewritten:

"SECTION 28.32. The State Board of Education may transfer up to one million dollars (\$1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2001-2002 fiscal year and up to one million dollars (\$1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2002-2003 fiscal year to the Department of Public Instruction to lease or purchase equipment necessary for the testing and implementation of NC WISE, the new student information system in the public schools."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FUNDS TO IMPLEMENT THE ABCs OF PUBLIC EDUCATION

SECTION 7.7.(a) The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 2002-2003

fiscal year to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2001-2002 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

- (1) Incentive awards in schools that achieve higher than expected improvements may be up to:
 - a. One thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
 - b. Five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be up to:
 - a. Seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
 - b. Three hundred seventy-five dollars (\$375.00) for each teacher assistant.

SECTION 7.7.(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.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

REVISION OF READING AND WRITING ASSESSMENTS

SECTION 7.8. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to one million dollars (\$1,000,000) for the 2002-2003 fiscal year to revise the reading and writing assessments.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FUNDS FOR INSTRUCTIONAL SUPPLIES

SECTION 7.9.(a) Section 28.39(a) of S.L. 2001-424 applies only to funds appropriated for the 2001-2002 fiscal year.

SECTION 7.9.(b) The Joint Legislative Education Oversight Committee shall study the viability of the State contracting with on-line school supply vendors to allow teachers free access to a specific amount of school supplies, textbooks, test, and other classroom related materials. The Committee shall determine if the establishment of an on-line debit account for each teacher is cost-effective and an efficient way to meet the supply needs of teachers. The Committee shall report to the General Assembly its findings and any recommended action by January 15, 2003.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FUNDS FOR MENTOR PAY

SECTION 7.10. State funds appropriated for mentor pay shall be used only to provide mentors for employees who are in State-funded positions and who are either (i) newly certified teachers in their first two years of employment as teachers or (ii) entry-level instructional support personnel who have not previously been teachers and who are in their first year of employment as instructional support personnel.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

CONVERSION OF ACCUMULATED LEAVE TIME

SECTION 7.11.(a) G.S. 115C-302.1(c1) and (c2) reads as rewritten, and a new subsection is enacted to read:

"§ 115C-302.1. Salary.

~~...
(c1) Conversion of Leave.— Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall:~~

~~(1) Convert to either sick leave or to pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and~~

~~(2) Convert to sick leave the remaining excess accumulation.~~

~~Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Actual payment for excess accumulated annual vacation leave may be made after July 1.~~

~~(c2) Conversion of Leave Upon Separation of Service.— Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual vacation leave not to exceed a maximum of 30 days. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.~~

~~Any teacher or other personnel paid on the teacher salary schedule who has more than 30 days of accumulated annual vacation leave at the time the person retires shall:~~

~~(1) Convert to either sick leave or to pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and~~

~~(2) Convert to sick leave the remaining excess accumulation which may be used for creditable service at retirement in accordance with G.S. 135-4(e).~~

~~Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays.~~

~~(c3) Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall convert to sick leave the remaining excess accumulation.~~

~~Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 30 days. In addition to the maximum of 30 days pay for accumulated annual leave, upon separation from service due to service retirement, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave may convert some or all of the excess accumulation to sick leave for creditable service towards retirement. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.~~

~~....~~

~~**SECTION 7.11.(b)** This section applies only to leave days accruing after the date this act becomes law.~~

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine
RESA FUNDS SHALL BE USED FOR STAFF DEVELOPMENT

SECTION 7.12.(a) Funds allocated to local school administrative units for Regional Education and Technical Assistance Centers and not expended prior to July 1, 2002, shall remain available to local school administrative units for the 2002-2003 fiscal year. These funds shall be transferred to the staff development funding allotment and shall be used only for staff development.

SECTION 7.12.(b) This section becomes effective June 30, 2002.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC INSTRUCTION/ REORGANIZATION OF THE DEPARTMENT

SECTION 7.13.(a) Notwithstanding any other provision of law, the Department of Public Instruction may use salary reserve funds and other funds in the Department's continuation budget to transfer and reclassify positions as necessary to implement the reduction in force for the 2002-2003 fiscal year.

SECTION 7.13.(b) The Office of State Budget and Management shall issue a Request for Proposals for an analysis of the structure and operation of the Department of Public Instruction that identifies potential efficiencies and savings in the operations of the Department. The analysis may consider consolidation of functions with other agencies and automation of functions.

The Request for Proposals may include contingency proposals based on potential savings.

The Office of State Budget and Management shall consult with the Joint Legislative Education Oversight Committee prior to the award of the contract.

SECTION 7.13.(c) Notwithstanding G.S. 143-23, the State Board of Education may reorganize the Department of Public Instruction, create a new associate superintendent position in the Department, and transfer funds within the budget of the Department to the extent necessary to implement the reorganization.

Requested by: Senators Dalton, Lucas, Garrou, Hagan, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.14.(a) Of the funds appropriated to the State Board of Education for the 2002-2003 fiscal year, the Board may use up to ten million dollars (\$10,000,000) for allotments to local boards of education for replacement school buses under G.S. 115C-249(c) and (d). In making these allotments, the State Board of Education may impose any of the following conditions:

- (1) The local board of education must use the funds only to make the first year's payment on a financing contract entered into pursuant to G.S. 115C-528.
- (2) The term of a financing contract entered into under this section shall not exceed three years.
- (3) The local board of education must purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.
- (4) The State Board of Education shall solicit bids for the direct purchase of buses and for the purchasing of buses through financing. The State Board of Education may solicit separate bids for financing if the Board determines that multiple financing options are more cost-efficient.
- (5) A bus financed pursuant to this section must meet all federal motor vehicle safety regulations for school buses.
- (6) Any other condition the State Board of Education considers appropriate.

SECTION 7.14.(b) It is the intent of the General Assembly to continue its annual appropriations to the State Board of Education for replacement school buses.

SECTION 7.14.(c) Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine
CURRICULUM REVIEW REQUIRED ON A REGULAR BASIS

SECTION 7.15. G.S. 115C-12(9a) reads as rewritten:

"(9a) Power to Develop Content Standards. – The Board shall develop a comprehensive plan to revise content standards and the standard course of study in the core academic areas of reading, writing, mathematics, science, history, geography, and civics. The Board shall involve and survey a representative sample of parents, teachers, and the public to help determine academic content standard priorities and usefulness of the content standards. A full review of available and relevant academic content standards that are rigorous, specific, sequenced, clear, focused, and measurable, whenever possible, shall be a part of the process of the development of content standards. The revised content standards developed in the core academic areas shall (i) reflect high expectations for students and an in-depth mastery of the content; (ii) be clearly grounded in the content of each academic area; (iii) be defined grade-by-grade and course-by-course; (iv) be understandable to parents and teachers; (v) be developed in full recognition of the time available to teach the core academic areas at each grade level; and (vi) be measurable, whenever possible, in a reliable, valid, and efficient manner for accountability purposes.

High school course content standards shall include the knowledge and skills necessary to enter the workforce and also shall be aligned with the coursework required for admission to the constituent institutions of The University of North Carolina. The Board shall develop and implement a plan for end-of-course tests for the minimum courses required for admission to the constituent institutions. All end-of-course tests shall be aligned with the content standards.

The Board also shall develop and implement an ongoing process to align State programs and support materials with the revised academic content standards for each core academic area ~~every five years~~ on a regular basis. Alignment shall include revising textbook criteria, support materials, State tests, teacher and school administrator preparation, and ongoing professional development programs to be compatible with content standards. The Board shall develop and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards. The State Board of Education shall work in collaboration with the Board of Governors of The University of North Carolina to ensure that teacher and school administrator degree programs, ongoing professional development and other university activity in the State's public schools align with the State Board's priorities."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

CORPORATE TAX TRANSFER MORATORIUM

SECTION 7.16.(a) Notwithstanding the provisions of G.S. 115C-489.1(b), the Secretary of Revenue shall not deposit any funds in the Critical School Facility Needs Fund during the 2002-2003 fiscal year but shall deposit in the State Public School Fund the funds that would have otherwise been deposited in the Critical School Facility Needs Fund pursuant to G.S. 115C-489.1(b).

SECTION 7.16.(b) Notwithstanding the provisions of G.S. 115C-546.1(b), the Secretary of Revenue shall not remit any funds for credit to the Public School

Building Capital Fund during the 2002-2003 fiscal year but shall deposit in the State Public School Fund the funds that would have otherwise been deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b). The Department of Public Instruction may continue to use these funds to support six positions in the School Planning Division.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

STUDY MODIFICATIONS

SECTION 7.17.(a) Supplemental Funding in Low-Wealth Counties (Compliance with the Nonsupplant Requirement). – Section 28.6(i) of S.L. 2001-424 reads as rewritten:

"SECTION 28.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to ~~May 1, 2002~~, May 1, 2002 and May 1, 2003, if it determines that counties have supplanted funds."

SECTION 7.17.(b) Small School System Supplemental Funding (Compliance with the Nonsupplant Requirement). – Section 28.7(e) of S.L. 2001-424 reads as rewritten:

"SECTION 28.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to ~~May 1, 2002~~, May 1, 2002 and May 1, 2003, if it determines that counties have supplanted funds."

SECTION 7.17.(c) Study of the Textbook Distribution System. – Section 28.24 of S.L. 2001-424 reads as rewritten:

"SECTION 28.24. The State Board of Education shall contract for an analysis of the best and most efficient method to manage textbook distribution to the local schools. The Board shall prepare a Request for Proposals (RFP) outlining the scope of the analysis required and select a private consultant to perform the analysis. The analysis shall include such issues as timely delivery, total costs to the local school systems in providing textbooks to school buildings, use of currently available technology in the process, pricing practices among the textbook publishing industry, and other issues the Board considers relevant to a comprehensive review of the system.

Prior to award of a contract, the State Board shall present the Request for Proposals to the Joint Legislative Education Oversight Committee for comment. The State Board shall report to the Joint Legislative Education Oversight Committee on the results of the consultant's analysis, including the Board's recommendations for changes in the current system. The Board shall make its final report to the Committee by ~~April 1, 2002~~ February 1, 2003."

SECTION 7.17.(d) Study of the Salaries of School Food Service Workers and Custodians. – Section 28.34 of S.L. 2001-424 reads as rewritten:

"SECTION 28.34. The Joint Legislative Education Oversight Committee shall study the salaries of food service workers and custodians employed by the public schools. The Committee shall report its findings to the ~~2002 Regular Session of the 2001 General Assembly~~ 2003 General Assembly."

SECTION 7.17.(e) Study of Salary Differentials for Instructional Support Personnel. – Section 28.37(b) of S.L. 2001-424 reads as rewritten:

"SECTION 28.37.(b) The Joint Legislative Education Oversight Committee shall study salary differentials for instructional support personnel. In the course of the study, the Committee shall consider salary differentials based on degrees and other educational credentials, licensure or certification by State agencies, licensure or certification by private entities, and other factors. The Committee shall report its findings and recommendations to the ~~2002 Regular Session of the 2001 General Assembly~~ 2003 General Assembly."

SECTION 7.17.(f) Fairness in Testing (Study of the State's Testing Program). – Section 28.17(i) of S.L. 2001-424 reads as rewritten:

"SECTION 28.17.(i) The Joint Legislative Education Oversight Committee shall study the State's testing program. As part of this study, the Committee shall consider:

- (1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.
- (2) Whether the State should consider the use of nationally developed tests as a substitute to State-developed testing. In particular, the Committee shall determine whether this use would (i) affect the ABCs Program, (ii) adequately measure student achievement and performance, (iii) provide more than minimum levels of achievement, (iv) provide a better comparison to student achievement and performance in other states, (v) be practical for high school courses or higher level courses, (vi) reduce the need for field testing, and (vii) offer any cost savings to the State.
- (3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.
- (4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.
- (5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.
- (6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.
- (7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than improve the performance of the school in which the student originally was assigned.
- (7a) The extent to which the State tests assist in compliance with the assessment and accountability provisions of the federal "No Child Left Behind" law and regulations, the ABCs Program model, and the Leandro rulings.
- (8) Any other issue the Committee considers relevant.

The Committee shall report its findings and any recommendations, including recommended legislation, to the ~~2002 Regular Session of the 2001 General Assembly~~ 2003 General Assembly."

SECTION 7.17.(g) Noncitizen Tuition Rates. – Section 8.9 of S.L. 2001-491 is repealed.

SECTION 7.17.(h) Study of Professional Development for School Personnel. – Section 31.4(d) of S.L. 2001-424 reads as rewritten:

"SECTION 31.4.(d) The Joint Legislative Education Oversight Committee shall review the consultant's findings and recommendations and shall submit to the ~~2002~~

~~Regular Session of the 2001 General Assembly~~ 2003 General Assembly recommendations to streamline, reorganize, and improve the delivery of professional development for public school professionals. The recommendations may address revisions to program governance and mission, reallocation of funds, methods of program delivery, and methods to institute ongoing program evaluation."

Requested by: Senators Dalton, Lee; Representatives Yongue, Easterling
PERFORMANCE-BASED LICENSURE PROGRAM/SUSPENSION OF PORTFOLIO REQUIREMENT AND STUDY

SECTION 7.18.(a) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the Education Cabinet, shall review teacher preparation programs and the continuing certification process to determine how these programs can be modified to enhance the continuing teacher certification process and to reduce the burden the continuing certification process places on newly certified teachers. This evaluation shall consider strategies for streamlining the current continuing certification process and reducing the amount of documentation required in the applicant's portfolio.

The State Board of Education shall suspend the portfolio requirement for all teachers who are required, under the current law, to submit portfolios from August 1, 2002, through June 30, 2004. Teachers who are not required to submit portfolios during the period the portfolio requirement is suspended shall be subject to interim requirements adopted by the State Board and shall complete the interim requirements. The State Board of Education shall make every effort to insure that any interim requirements do not require significant and unnecessary paperwork, effort, and administrative burden. Prior to implementation of the interim requirements, the State Board of Education shall report to the Joint Legislative Education Oversight Committee on the proposed requirements.

SECTION 7.18.(b) The State Board of Education shall contract with an outside consultant to study and propose modifications to the current North Carolina initial certification, continuing certification, and recertification programs that ensure high standards, support for teachers, and high retention rates. Specifically, the contractor shall:

- (1) Review the administration and implementation of the certification programs and identify significant strengths and weaknesses of the programs;
- (2) Identify issues related to administration, staffing, and paperwork at the school, local, and State levels;
- (3) Investigate and identify communication concerns about the certification programs between the school, local, and State levels;
- (4) Randomly survey and interview participating teachers and administrators regarding key aspects of the certification programs and ways to improve them;
- (5) Examine the possibility of making the programs more focused on and supportive of early teacher development and integrating them more appropriately into a teacher's daily work;
- (6) Examine the portfolios previously submitted and identify the elements that are most troublesome to teachers, schools, and school systems;
- (7) Identify alternatives to the portfolio approach and ways to keep paperwork requirements to a minimum;
- (8) Review the State's mentor program and the mentor's role in support of certification efforts to determine whether the two programs are complementary;
- (9) Examine the effect of the certification programs on teacher retention, using valid evidence; and

- (10) Examine the impact the certification programs have on improving teaching practices, using valid evidence.

SECTION 7.18.(c) The State Board of Education shall use the results of the study to make recommendations to:

- (1) Improve the administration and implementation of the certification programs, including improving the process for teachers;
- (2) Resolve the issues surrounding the portfolio process and the collection of professional evidence during initial certification;
- (3) Reduce paperwork and bureaucracy in initial certification, continuing certification, and recertification for teachers, schools, and school systems;
- (4) Provide schools and districts incentives and flexibility to participate in more rigorous certification processes;
- (5) Effectively use information regarding teacher supply and demand, standards and retention to inform policy decisions;
- (6) Improve the relationship and coordination between the certification programs and mentoring programs;
- (7) Provide appropriate sample work to teachers, including lesson plans, unit plans, and other professional work required during initial certification; and
- (8) Provide ongoing program evaluation to monitor the quality of the programs and to inform policymakers.

SECTION 7.18.(d) The State Board of Education shall enlist the assistance of the Southern Regional Education Board in evaluating the responses to the request for proposals. Prior to awarding the contract for the consultant study, the State Board shall consult with the Joint Legislative Education Oversight Committee.

The State Board shall use federal No Child Left Behind State Grants for Improving Teacher Quality, to the extent possible, to cover the cost of the consultant and study.

The State Board shall report the findings of the consultant and the recommendations required by this section to the Joint Legislative Education Oversight Committee by January 1, 2004.

SECTION 7.18.(e) The Joint Legislative Education Oversight Committee shall make recommendations to the General Assembly on any changes to law or policy affecting certification of teachers on or after August 1, 2004, after reviewing the findings and recommendations of the consultant and State Board of Education.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

STUDY OF COORDINATION OF CENTRAL OFFICE DUTIES

SECTION 7.19. The State Board of Education shall study whether local school administrative units can effectively and efficiently coordinate central office operations and functions between systems. The State Board shall report to the Senate Appropriations Committee on Education/Higher Education and the House Appropriations Subcommittee on Education prior to March 1, 2003, on how base funding formulas for central office administrations can be reduced based on the coordination of duties.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

SECTION 7.20.(a) If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with the Allotment Adjustments for ADM Growth provisions of the North

Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

SECTION 7.20.(b) If the first-month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the first-month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

The allotments reduced pursuant to this subsection shall include only those allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

HIGH SCHOOL EXIT EXAMINATION

SECTION 7.21. Notwithstanding Section 8.27(f) of S.L. 1997-443, the State Board of Education shall review the requirements of the federal "No Child Left Behind Act of 2001". (20 USCS §§ 6301 et seq.) and any regulations adopted to implement this legislation before the Board completes the development of the high school exit examinations and implements the high school exit examinations. The Board shall consider whether revisions to the State testing program and School-Based Management and Accountability Program are necessary to comply with federal requirements. The Board shall not adopt any revisions prior to reporting them and a proposed timetable for their implementation to the Joint Legislative Education Oversight Committee.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

CLARIFICATION TO PROVISION ON ADDRESSING TEACHER SHORTAGE

SECTION 7.22. Section 29.2(a)(2) of S.L. 2001-424 reads as rewritten:

"(2) The sum of \$1,500,000 for the 2001-2002 fiscal year and the sum of \$1,500,000 for the 2002-2003 fiscal year shall be used to provide annual bonuses of one thousand eight hundred dollars (\$1,800) to teachers certified in and teaching in the fields of mathematics, science, or special education in grades 6 through 12 at middle and high schools with eighty percent (80%) or more of the students eligible for free or reduced lunch or with fifty percent (50%) or more of students performing below grade level in Algebra I and Biology. The bonus shall be paid monthly with matching benefits. Teachers shall remain eligible for the bonuses so long as they continue to teach in one of these disciplines at a school that was eligible for the bonus program when the teacher first received the bonus."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

EXTEND ALTERNATIVE LATERAL ENTRY PROGRAM

SECTION 7.24. Section 2 of S.L. 1998-226 reads as rewritten:

"**Section 2.** This act is effective when it becomes law and expires ~~September 1, 2002, September 1, 2006,~~ except that it remains effective for any teacher employed under this act before ~~September 1, 2002.~~ September 1, 2006."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

ADDITIONAL TEACHER POSITIONS FOR FIRST GRADE

SECTION 7.25.(a) The class size allotment for first grade for the 2002-2003 school year shall be one teacher for every 18 students. The average class size for first grade within a local school administrative unit shall not exceed 21 students. The maximum class size for first grade for individual classes for the 2002-2003 fiscal year shall be 24 students.

SECTION 7.25.(b) For the 2002-2003 school year only, a local school administrative unit shall use these additional teacher positions to reduce class size in first grade.

SECTION 7.25.(c) For the 2003-2004 school year and subsequent school years, the maximum class size limit for first grade shall be based on an allotment ratio of one teacher for every 18 students.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

LOCAL EDUCATION AGENCY FLEXIBILITY

SECTION 7.26. Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit of the amount the unit must reduce from State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.

The State Board of Education shall review the first month average daily membership information for each local school administrative unit and reduce allotments to local school administrative units that received planning allotments based on 500 or more students than were in the actual first month's average daily membership. The amount reduced shall be applied to the total Reserve for Local Education Agency Discretionary Reduction prior to determining the amount of the reduction for each unit.

Each unit shall report to the Department of Public Instruction on the discretionary budget reductions it has identified for the unit within 30 days of the date this act becomes law.

The General Assembly urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

BUSINESS AND EDUCATION TECHNOLOGY ALLIANCE

SECTION 7.27.(a) There is created the State Board of Education's Business and Education Technology Alliance.

SECTION 7.27.(b) The Business and Education Technology Alliance shall be composed of 27 members who have knowledge and interest in ensuring that the effective use of technology is built into the North Carolina School System for the purpose of preparing a globally competitive workforce and citizenry for the 21st century. These members shall be appointed as follows:

- (1) The Superintendent of Public Instruction or his or her designee;
- (2) One member of the State Board of Education appointed by the chair of the State Board of Education;

- (3) One parent of a public school child appointed by the State Board of Education after receiving recommendations from the North Carolina State Parent Teacher Association;
- (4) Two members of the Senate appointed by the President Pro Tempore of the Senate;
- (5) Two members of the House of Representatives appointed by the Speaker of the House of Representatives;
- (6) One member of a local board of education who represents a local education agency (LEA) that has successfully incorporated technology into its schools, who is appointed by the Governor, after receiving recommendations from the North Carolina School Boards Association;
- (7) One member of a local board of education who represents a local education agency (LEA) that has limited access to technology, who is appointed by the Governor, after receiving recommendations from the North Carolina School Boards Association;
- (8) Two at-large members appointed by the Governor;
- (9) One representative of business and industry appointed by the State Board of Education after receiving recommendations from the North Carolina Citizens for Business and Industry;
- (10) Four members appointed by the President Pro Tempore of the Senate. In making these appointments the President Pro Tempore is encouraged to consider appointing a local school superintendent or a local school administrator who represents a local education agency that has limited access to technology, a school principal who works in a school that successfully incorporates technology into its instructional program, a school teacher who works in a school with limited access to technology, and a technology director who represents a local education agency (LEA) that has successfully incorporated technology into its schools. Professional associations representing school administrators and professional associations representing teachers may recommend appointees to the President Pro Tempore;
- (11) Four members appointed by the Speaker of the House of Representatives. In making these appointments the Speaker of the House of Representatives is encouraged to consider appointing a local school superintendent or a local school administrator from a local education agency that has successfully incorporated the use of technology into its instructional programs, a school principal working in a school with limited access to technology, a school teacher who has successfully incorporated the use of technology into classroom instruction, and a technology director who represents a local education agency (LEA) that has limited access to technology. Professional associations representing school administrators and professional associations representing teachers may recommend appointees to the Speaker of the House of Representatives;
- (12) One chancellor or his or her designee of institutions of higher education who has demonstrated effective and innovative use of technology for education, appointed by the Board of Governors of The University of North Carolina;
- (13) One president or his or her designee of the Community College System who has demonstrated effective and innovative use of technology for education, appointed by the State Board of Community Colleges;
- (14) Two county commissioners, one of whom represents a county that has successfully incorporated technology into its schools and community, who are appointed by the State Board of Education, after receiving

recommendations from the North Carolina Association of County Commissioners;

- (15) Two representatives of technology businesses who have either successfully developed innovative technology programs for education or have partnered with a local education agency (LEA) to develop a technology-based education environment in that LEA, who are appointed by the State Board of Education, after receiving recommendations from North Carolina Electronics and Information Technologies Association and the North Carolina Citizens for Business and Industry; and
- (16) One representative of the Information Resource Management Commission appointed by the Commission's Chair.

SECTION 7.27.(c) Each of the following organizations or agencies shall select a representative from its organization or agency to serve as a nonvoting member to the Alliance. These members shall provide information to the Alliance about technology in North Carolina: Rural Internet Access Authority; Information and Technology Services, North Carolina Department of Public Instruction; Office of State Information Technology Services, Office of the Governor.

SECTION 7.27.(d) Members of the Business and Education Technology Alliance shall serve for two-year terms. All members of the Alliance shall be voting members unless they are designated as ex officio members. The officer who made the initial appointment shall fill vacancies in the appointed membership. The member of the State Board of Education appointed to the Alliance by the chair of the State Board of Education shall serve as chair of the Alliance.

SECTION 7.27.(e) Members of the Business and Education Technology Alliance shall receive travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6.

SECTION 7.27.(f) The Business and Education Technology Alliance shall:

- (1) Advise the State Board of Education on the development of a vision for a technologically literate citizen in 2025. This vision should contain the educational standards needed to accomplish that vision, the educational uses of technology to accomplish that vision, and a plan for educating the community, educators, and business people about the vision and educational uses of technology. The vision and the plan for educating the public about the vision may include:
 - a. Various models and frameworks of the high quality and effective use of technology for education purposes including those students who have not learned with traditional approaches. The models may include the Cumberland County Schools Web Academy, the Virtual High School, and Nova Net.
 - b. Opportunities for teachers to experience the uses of technology in work and business settings, which is the world for which they are preparing students to work.
 - c. Production of multimedia presentations such as videos, commercials, and publications that help citizens, students, and educators see and understand the current and future power of technology for educating our children and impacting our lives.
- (2) Advise the State Board of Education on the development of a technology infrastructure, delivery, and support system that provides equity and access to all segments of the population in North Carolina. The infrastructure, delivery, and support system may include:
 - a. Opportunities for access to high-speed connectivity to the Internet which impacts on the quality of instruction that can be provided for students at school and in the community.

- b. Technology networks that enable communities to encompass the student and his/her family while maintaining the rights to privacy for all citizens, i.e., a social service, health, education, and mental health network. This network will increase collaboration among agencies and provide a coordinated, systemic service approach.
 - c. Continue to evaluate the status of current technology systems and structures from the State to local level as it relates to employing technology for improving instruction.
 - d. Continue to provide access to technology equipment and infrastructure at home, school, and in the community such as extended hours of operation for schools and other community facilities and on-loan laptop computers for student and parent use.
 - e. Continue to develop surveys that provide information about the types and results of technological tools utilized by teachers, students, and others at school, in the community, and home.
 - f. Sufficient personnel to maintain the operation of information technology systems.
 - g. Coordination with regional economic development planners to position local education agencies as an integral part of economic development.
- (3) Advise the State Board of Education on the development of professional development programs for teachers to successfully implement and use technology in public schools for all students. These programs should also develop their leadership skills so that they can use technology as a tool to support the rethinking of the core business of schools: student learning. The professional development programs may include:
- a. Models of staff development from the State that are considered state of the art, support the vision for technology, and that could be used by local districts to train their staffs.
 - b. Designated time for professional development for using technology as well as skills for using technology as a delivery for curriculum and instructional programs.
 - c. Collegial planning time so that colleagues can coach and support each other in learning new ways in which to think about instruction.
 - d. Teacher and administrator preparation and other programs that ensure the Department of Public Instruction's Technology Foundation Standards for Teachers and Administrators in higher education are incorporated into classroom instruction.
 - e. Training teachers with skill sets to teach technical courses that are in growing demand to function at home and work.
 - f. Increase opportunities for sharing best practices in all areas of instruction.
 - g. Increase opportunities for learning how to use technology to customize instruction for all students.
 - h. Increase opportunities for learning how to use technology to diagnose student learning.
- (4) Advise the State Board of Education on the development of a Funding and Accountability system to ensure statewide access and equity. The Funding and Accountability system may include:
- a. Public-private partnerships.
 - b. Identification of resources and the cost of those resources.

- c. Funding to keep hardware/software current.
 - d. Evaluating progress toward realizing the technology vision.
 - e. Evaluating the impact of various technology initiatives on alleviating some of the State's education and economic development problems.
 - f. Incentives to encourage risk taking and innovative uses of technology.
 - g. Funding for only those initiatives that are well-planned, demonstrate high commitment, and have a solid evaluation component.
- (5) Report annually to the State Board of Education on the progress of the Alliance's recommendations for education technology in the public schools on the first Friday in December. This report may contain a summary of recommendations for changes to any law, rule, and policy that would improve implementing education technology in the public schools.
- (6) Report annually to the Joint Legislative Education Oversight Committee in the General Assembly on the recommendations for education technology in the public schools on the first Friday in January. This report may contain a summary of recommendations for changes to any law, rule, and policy that would improve implementing education technology in the public schools.

SECTION 7.27.(g) Federal funds and private funds may be used to support the Alliance. State funds shall not be used to support the Alliance.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Gibson, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

HIGH PRIORITY SCHOOL PROGRAM WAIVER

SECTION 7.28. Section 29.6(c) of S.L. 2001-424 reads as rewritten:

"SECTION 29.6.(c) If a local board of education determines that the local school administrative unit is unable to implement the class-size limitation in accordance with this section for any high-priority school located in the unit, the local board may request a waiver for the school for the 2001-2002 school year. The request shall include the documentation required in G.S. 115C-105.26(a). If the State Board grants the waiver, the State Board shall withdraw the additional teacher positions allotted to the local school administrative unit for the school and reinstate the regular allotment for teacher assistants for the school.

If a local board of education determines that the local school administrative unit is unable to implement the class-size limitation and other high priority initiatives in accordance with this section for any high-priority school located in the unit for the 2002-2003 school year, the local board may request a waiver for the school from the State Superintendent of Public Instruction for the 2002-2003 school year. The Superintendent shall evaluate the school's efforts to meet the goals of high priority schools. The Superintendent may grant a waiver for the 2002-2003 school year if the Superintendent finds that the school is making efforts comparable to those required for high-priority schools and that the educational progress of students in the school is satisfactory."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

NOTIFICATION OF FIELD TESTING

SECTION 7.30. G.S. 115C-174.12 reads as rewritten:

"§ 115C-174.12. Responsibilities of agencies.

(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing ~~programs~~ programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a child's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a child's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for students with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article.

(b) The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this Article.

(b1) The Superintendent shall notify local boards of education by October 1 of each year of any field tests that will be administered in their schools during the school year, the schools at which the field tests will be administered, and the specific field tests that will be administered at each school.

(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual and competency testing programs to fulfill the purposes set out in this Article. Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs further."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Yongue, Boyd-McIntyre, Rogers, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

DRIVERS EDUCATION FUNDING

SECTION 7.31. From funds appropriated by this act to the Department of Transportation, the Department shall pay for the increased costs for drivers education due to the projected increase in average daily membership in the ninth grade drivers education program.

In allocating funds for driver training, the State Board of Education shall consider the needs of small and low-wealth local school administrative units.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

INTERVENTION STRATEGIES FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 7.32. Section 29.5 of S.L. 2001-424 reads as rewritten:

"SECTION 29.5. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of one million eight hundred seven thousand two hundred fifty-six dollars (\$1,807,256) for the 2001-2002 fiscal year and the sum of one million nine hundred eighty-six thousand six hundred ninety-one dollars (\$1,986,691) for the 2002-2003 fiscal year shall be used to provide the State's chronically low-performing schools with tools needed to dramatically improve student achievement. These funds shall be used to implement any of the following strategies at the schools that have not previously been implemented with State or other funds:

- (1) The sum of \$471,366 for the 2001-2002 fiscal year and the sum of \$471,366 for the 2002-2003 fiscal year shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted for students in grades four and five is one for every 17 students; and
- (2) The sum of \$1,207,595 for the 2001-2002 fiscal year and the sum of \$1,207,595 for the 2002-2003 fiscal year shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and
- (3a) The sum of \$128,295 for fiscal year 2001-2002 shall be used to extend teachers' contracts at these schools by five days for staff development, including methods to individualize instruction in smaller classes and preparation for the 2001-2002 school year. Of these funds, the sum of \$10,175 shall be used for the extension of contracts of the additional teachers in grades four and five provided in subdivision (1) of this section and the sum of \$118,120 shall be used for the extension of all teachers' contracts at continually low-performing middle and high schools for the 2001-2002 school year; and
- (3b) The sum of \$307,730 for fiscal year 2002-2003 shall be used to extend teachers' contracts for a total of 10 days, including five days of additional instruction with related costs for other than teachers' salaries for the 2002-2003 school year. Of these funds, the sum of \$24,405 shall be used for the extension of contracts of the additional teachers in grades four and five provided in subdivision (1) of this section and the sum of \$283,325 shall be used for the extension of all teachers' contracts at continually low-performing middle and high schools for the 2002-2003 school year.

Notwithstanding any other provision of law, the State Board of Education may implement intervention strategies for the 2001-2002 and 2002-2003 school year-years that it deems appropriate."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

STUDY VOCATIONAL EDUCATION TESTS

SECTION 7.33. The Joint Legislative Education Oversight Committee may study the extent to which standardized tests are utilized in Vocational Education classes for the purpose of grading students. The Committee may examine whether appropriate grading weight also is assigned to the assessment of actual student skill performance and knowledge. The Committee may report its findings, which may include legislative recommendations, to the 2003 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

AVAILABILITY OF INFORMATION ON EMPLOYEE QUALIFICATIONS

SECTION 7.36. G.S. 115C-319 reads as rewritten:

"§ 115C-319. Personnel files not subject to inspection.

Personnel files of employees of local boards of education, former employees of local boards of education, or applicants for employment with local boards of education shall not be subject to inspection and examination as authorized by G.S. 132-6. For purposes of this Article, a personnel file consists of any information gathered by the local board of education which employs an individual, previously employed an individual, or

considered an individual's application for employment, and which information relates to the individual's application, selection or nonselection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or termination of employment wherever located or in whatever form.

Nothing in this section shall be construed to prevent local boards of education from disclosing the certification status and other information about employees as required by Section 1111(h)(6) of P.L. 107-110."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Wright, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

STUDY OF THE DUTIES OF SCHOOL COUNSELORS

SECTION 7.37. The Joint Legislative Education Oversight Committee shall study the duties of school counselors. In the course of the study the Committee shall consider ways to ensure that school counselors have adequate time to:

- (1) Implement a comprehensive developmental school-counseling program in their schools;
- (2) Provide direct services to students through interdisciplinary curriculum development; group activities; parent workshops; individual student and small-group services; consultation with students, families, and staff; crisis counseling; referrals; peer facilitation; and other means;
- (3) Working in school-counseling program support activities that consist of professional development; consultation, collaboration, and training; and program management and operations; and

The Committee shall also determine the amount of time school counselors currently spend on test coordination activities related to the ABCs Program.

The Committee shall report the results of the study to the 2003 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Creech, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

DEFINITION OF RETIRED TEACHER MODIFIED

SECTION 7.38. G.S. 115C-325(a)(5a) reads as rewritten:

"§ 115C-325. System of employment for public school teachers.

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

- (5a) **(Effective until June 30, 2003)** "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least six months, has not been employed in any capacity, other than as a substitute teacher or a part-time tutor, with a local board of education for at least six months, immediately preceding the effective date of reemployment, 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)c. A retired teacher shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Warner, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

LIMIT CERTIFICATION RENEWAL FOR RETIRED TEACHERS

SECTION 7.39. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years ~~thereafter~~ thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement shall remain in effect for five years after retirement.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing certification. The new requirements shall reflect more rigorous standards for continuing certification and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for students who do not major in special education include demonstrated competencies in the identification and education of children with learning disabilities. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board."

Requested by: Senators Odom, Lee; Representatives Easterling, Redwine

CERTIFICATION OF SCHOOL NURSES

SECTION 7.41.(a) G.S. 115C-315 is amended by adding the following new subsection to read:

"(d1) Certification for School Nurses. – Notwithstanding any other provision of law or rule, school nurses employed in the public schools prior to July 1, 1998, shall not be

required to be nationally certified to continue employment. School nurses not certified by the American Nurses' Association or the National Association of School Nurses shall continue to be paid based on the noncertified nurse salary range as established by the State Board of Education."

SECTION 7.41.(b) The Joint Legislative Education Oversight Committee shall study issues related to the qualifications of school nurses. In the course of the study, the Committee shall consider the current State Board of Education rule requiring national certification of school nurses, the availability of school nurses across the State, and the need for additional local flexibility regarding the credentials of school nurses. The Committee shall report the results of its study to the 2003 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.43. Section 28.7(a) of S.L. 2001-424 reads as rewritten:

"SECTION 28.7.(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 fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership of from 3,175 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 3,175 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 fewer.
- (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 ~~five hundred forty thousand seven hundred dollars (\$540,074)~~ five hundred seventy-seven thousand one hundred eleven dollars (\$577,111), 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."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

SAMPLE TEST TO VALIDATE K-2 ASSESSMENT

SECTION 7.44. Notwithstanding G.S. 115C-174.11(a), the Department of Public Instruction may administer a standardized reading test measure for a one-time, one-year only, pilot study of the comparative predictive validity of the reading assessment used in kindergarten through second grade. This standardized measure may be administered to a sample of students in a maximum of five percent (5%) of the eligible public schools, including eligible charter schools, and is limited to the extent necessary to receive funds as part of the federal Reading First Grant. The results of this standardized measure shall not be used to evaluate, promote, or retain any student.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Easterling, Oldham, Redwine

RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINCIPALS IN PUBLIC SCHOOLS

SECTION 7.45.(a) Funds in the Reserve for Experience Step Increase for Teachers and Principals in Public Schools shall be used for experience step increases for employees of schools operated by a local board of education, the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the principal and assistant principal salary schedule.

SECTION 7.45.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Experience Step Increase for Teachers and Principals in Public Schools to provide an annual average salary increase of one and eighty-four hundredths percent (1.84%), including funds for the employer's retirement and social security contributions, commencing July 1, 2002, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

PART VIII. COMMUNITY COLLEGES

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

COMMUNITY COLLEGE FUNDING FLEXIBILITY

SECTION 8.1. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

No more than two percent (2%) systemwide shall be transferred from faculty salaries without the approval of the State Board of Community Colleges. The State Board shall report on any such transfers above two percent (2%) systemwide to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

REGIONAL PROGRAMS

SECTION 8.2. It is the intent of the General Assembly to increase the number of regional program offerings in community colleges and to reduce duplication of programs by colleges that are within reasonably close proximity to each other; therefore, the State Board of Community Colleges shall review existing programs to

determine which of the existing programs can be offered regionally. In developing new programs, the State Board of Community Colleges shall consider whether a regional approach can be used, and to the extent possible, shall initiate new programs on a regional basis.

The State Board of Community Colleges shall report on an annual basis to the Governor, Lieutenant Governor, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee on all new programs it approved and on the progress made on regional programs during the year. The report shall include the specific reasons for which each new program was approved, a progress report on regionalization of programs, and a list of program terminations approved by the State Board.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

REGIONAL ECONOMIC DEVELOPMENT VISION PLANS

SECTION 8.3. The State Board of Community Colleges, the Board of Governors of The University of North Carolina, and the Department of Commerce, in conjunction with the North Carolina Board of Economic Development and the seven regional economic development commissions, shall adopt a joint policy that requires the development of a five-year vision plan for each of the economic development regions in the State. The joint policy shall establish a task force for each economic development region. Each task force shall consist of at least one representative from each of the following: the regional economic development commission, the president, the board of trustees of each community college located in that region, the Chancellor, and the board of trustees of each university campus located in that region, and any additional persons as may be designated by the policy. The task force may appoint an executive committee and any subcommittees it deems appropriate.

The policy shall direct each task force to develop a five-year vision plan for its economic development region. At a minimum, each vision plan shall determine the realistic economic development goals and the future job market in that region and shall identify community college and university courses currently offered or needed to effectuate the vision plan. The policy shall require the task forces to review and update their respective vision plans every five years.

If the service area of any community college or university is in more than one economic development region, then the State Board of Community Colleges or the Board of Governors of The University of North Carolina, respectively, shall determine how the participation in the various task forces will be addressed.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

HAYWOOD REGIONAL HIGH TECHNOLOGY CENTER

SECTION 8.4.(a) The Office of State Budget and Management shall transfer funding for Haywood Regional High Technology Center from the special allotments line item to a new line item entitled "Haywood Regional High Technology Center".

SECTION 8.4.(b) The State Board of Community Colleges shall study the operations of the Haywood Regional High Technology Center, the economic impact of the Center on the region, and the costs of the Center to determine whether similar centers should be created in other regions of the State. The Board shall report the results of this study to the Joint Legislative Education Oversight Committee prior to March 1, 2003.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

REALIGNMENT OF FUNDING

SECTION 8.5.(a) Academic Support Supplement. – Effective July 1, 2002, funding for the Academic Support Supplement shall no longer be included as part of the curriculum instruction formula but shall be allocated from a separate line item in State Aid fund code 1600. The State Board of Community Colleges shall allocate these funds to the colleges on the basis of the budgeted FTE curriculum student enrollment for the current fiscal year.

Nothing in this section shall be construed to provide or to indicate the intent of the General Assembly to provide additional funding for the Academic Support Supplement.

SECTION 8.5.(b) Formula Modification Restrictions. – The State Board of Community Colleges may examine and recommend to the General Assembly new State Aid allocation options that more closely align the allocation and expenditure of State-appropriated resources. The State Board shall report any recommendations regarding modifications to the formula to the Senate Appropriations Committee on Education/Higher Education, the House Appropriations Subcommittee on Education, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division.

SECTION 8.5.(c) For the 2002-2003 fiscal year, the State Board of Community Colleges shall not allocate funds for the Botanical Laboratory at Fayetteville Technical Community College from General Fund appropriations. The State Board of Community Colleges shall allocate up to two hundred thousand dollars (\$200,000) from excess overrealized receipts for this purpose.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

TEMPORARY RULES ON FTE FOR TRAINING PROVIDED TO LAW ENFORCEMENT PERSONNEL AND ON GENERIC FEES

SECTION 8.6.(a) The State Board of Community Colleges may adopt temporary rules clarifying the conditions under which community colleges may earn budgeted FTE for training provided to personnel in law enforcement, fire and rescue services, and emergency medical service agencies.

SECTION 8.6.(b) The State Board of Community Colleges may adopt temporary rules clarifying the provisions of 23NCAC2(D).0201(c)(1) and (c)(2) pertaining to the definition of generic fees and specific fees charged to students attending community colleges.

SECTION 8.6.(c) This section constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a)(2). Prior to adopting temporary rules pursuant to this section, the State Board of Community Colleges shall:

- (1) Publish the proposed temporary rules in the North Carolina Register at least 30 days prior to adopting the temporary rules.
- (2) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt temporary rules.
- (3) Hold at least one public hearing on the proposed temporary rules.

SECTION 8.6.(d) This section becomes effective when this act becomes law and expires 180 days after that date.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

COMMUNITY COLLEGE SYSTEM STUDY

SECTION 8.7.(a) The Joint Legislative Education Oversight Committee, in conjunction with the State Board of Community Colleges, shall hire an outside consultant to consider:

- (1) The organization and structure of the Community College System, the number of colleges within the System, the location and size of the colleges, and whether the State could realize any administrative savings from the consolidation of some colleges or programs;
- (2) The formula used to fund administration at the colleges, appropriate funding levels for administration of the various colleges, and the appropriate number of administrative staff members for colleges of different sizes; and
- (3) The funding of multicampus colleges and off-campus centers, including the appropriate number of administrative staff members, and an appropriate funding mechanism for administration and for other purposes.

SECTION 8.7.(b) The Joint Legislative Education Oversight Committee may hire an outside consultant to study Community College System funding, including State funds, county funds, and tuition rates. In the course of this study, the consultant shall:

- (1) Compare the level of community college funding in North Carolina to that of other states, in view of the differences in their missions;
- (2) Consider an appropriate level of county funding; and
- (3) Consider the current level of resident tuition in view of the availability of financial aid at community colleges, the availability of financial aid at other institutions of higher education, and the current level of State funding.

SECTION 8.7.(c) The Committee shall report the results of these studies to the 2003 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS

SECTION 8.8.(a) 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 Community Colleges System Office to the extent necessary to implement base budget reductions and to reorganize the System Office to maintain management efficiencies. The State Board shall report to the Chairs of the Senate Appropriations Committee on Education/Higher Education and the House Appropriations Subcommittee on Education prior to transferring the funds.

SECTION 8.8.(b) This section expires June 30, 2003.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Buchanan, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

HOSIERY CENTER FUNDS

SECTION 8.10. Notwithstanding any other provision of law, all fees collected by the Hosiery Technology Center of Catawba Valley Community College for the testing of hosiery products shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

SCHOLARSHIPS FOR PROSPECTIVE TEACHERS

SECTION 8.13. Of the funds appropriated in this act to the State Board of Community Colleges, the State Board may use up to one million dollars (\$1,000,000) for a nonrecurring grant to the North Carolina Community College Foundation. These funds shall be used to match the Glaxo Smith Kline Foundation challenge grant establishing a two-million-dollar (\$2,000,000) endowment for the creation of a new scholarship program for prospective teachers enrolled in baccalaureate completion programs at State community college campuses and for the development of teacher preparation courses.

This provision is contingent upon receipt of one million dollars (\$1,000,000) for this purpose from the Glaxo Smith Kline Foundation and applies only to the 2002-2003 fiscal year.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT FLEXIBILITY

SECTION 8.14. The State Board of Community Colleges shall report to the Fiscal Research Division within 45 days of this act's becoming law on all reductions made by the State Board and the individual colleges in order to meet the management flexibility reduction for the State Board of Community Colleges.

PART IX. UNIVERSITIES

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

TRANSFER COLLECTION RESPONSIBILITIES FOR CERTAIN SCHOLARSHIP PROGRAMS TO STATE EDUCATION ASSISTANCE AUTHORITY

SECTION 9.2.(a) The statutory authority, powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the North Carolina Teaching Fellows Commission relating to the collection of loans awarded under G.S. 115C-363.23A when the loan repayments are outstanding for more than 30 days are transferred from the North Carolina Teaching Fellows Commission to the State Education Assistance Authority. This transfer has all of the elements of a Type II transfer as defined by G.S. 143A-6.

SECTION 9.2.(b) The statutory authority, powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Public Instruction relating to the collection of loan repayments for loans awarded under Article 32A of Chapter 115C of the General Statutes when the loans are outstanding for more than 30 days are transferred from the Department of Public Instruction to the State Education Assistance Authority. This transfer has all of the elements of a Type II transfer as defined by G.S. 143A-6.

SECTION 9.2.(c) G.S. 115C-363.23A is amended by adding a new subsection to read:

"(g) The State Education Assistance Authority is responsible for the collection of a loan awarded under this section if the loan repayment is outstanding for more than 30 days."

SECTION 9.2.(d) G.S. 115C-363.23A(f) reads as rewritten:

"(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all

interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

The Public School Forum, as administrator for the Teaching Fellows Program, may use up to one hundred fifty thousand dollars (\$150,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program. ~~These funds are in addition to funds required for collection costs related to loan repayments."~~

SECTION 9.2.(e) Article 32A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-472.1. State Education Assistance Authority collect loan repayments.

The State Education Assistance Authority is responsible for the collection of a loan awarded under this Article if the loan repayment is outstanding for more than 30 days."

SECTION 9.2.(f) G.S. 116-204 is amended by adding the following new subdivisions to read:

- "(9) To collect loan repayments for loans awarded under the Teaching Fellows Program pursuant to G.S. 115C-363.23A if the loan repayment is outstanding for more than 30 days.
- (10) To collect loan repayments for loans awarded from the Scholarship Loan Fund for Prospective Teachers pursuant to Article 32A of Chapter 115C of the General Statutes if the loan repayment is outstanding for more than 30 days."

Requested by: Senators Dalton, Garrou, Lucas, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

SUBSTITUTION OF UNC BOND PROJECTS

SECTION 9.3.(a) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina State University by substituting a project entitled Animal and Food Science Facilities for the Meat Processing Laboratory, as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds from the project entitled Main Campus – Infrastructure (Including Water System), as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended as follows:

- (1) In the portion under Projects Whose Funding Was Transferred to Disaster Recovery Fund – North Carolina State University, by deleting "Meat Processing Laboratory....\$4,853,755".
- (2) In the portion under North Carolina State University, by adding "Animal and Food Science Facilities....\$6,460,980" and by decreasing by \$1,607,225 the \$9,330,700 for Main Campus – Infrastructure (Including Water System) so that it reads "Main Campus – Infrastructure (Including Water System)....\$7,723,475".

SECTION 9.3.(b) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational requirements at the North Carolina School of the Arts by substituting a project entitled High School Student Residential Facility for the Residential Facility as contained in Section 2(a) of S.L. 2000-3, which was anticipated to be built for college students. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina School of the Arts, by deleting "Residence Hall...\$1,832,100" and by adding "High School Student Residential Facility...\$1,832,100".

SECTION 9.3.(c) Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

Requested by: Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

UNC SCHOLARSHIP PROGRAMS CONSOLIDATED

SECTION 9.4.(a) Effective July 1, 2003, all funds in the continuation budget for the following scholarship programs shall be combined into one scholarship fund to be known as the "UNC Campus Scholarships":

- (1) Minority Presence Grants for undergraduate and doctoral, law, and veterinary medicine students as described in the 1979 Consent Decree between The University of North Carolina and the United States Department of Health Education and Welfare at § VI, paragraphs 6.a. and 6.b.
- (2) Minority Presence Grants-II as established in Section 17.3A of S.L. 1994-769.
- (3) Incentive Scholarship Program for Native Americans as established in Section 17.3 of S.L. 1994-769.
- (4) Elizabeth City State University Incentive Program as established by Chapter 738 of the 1987 of the Session Laws.
- (5) Incentive Grants for Certain Constituent Institutions as established by S.L. 1991-689.
- (6) Freshman Scholars Programs as established by Section 46 of S.L. 1993- 561.
- (7) Legislative College Opportunity Program as established by Section 17.14 of S.L. 1994-769.

SECTION 9.4.(b) All obligations to students for uses of the funds set out in subsection (a) of this section that were made prior to the effective date of subsection (a) of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

SECTION 9.4.(c) Except as provided in subsection (d) of this section, funds in the UNC Campus Scholarships shall be distributed among the constituent institutions of The University of North Carolina in the same amounts as previous to the effective date of this act.

SECTION 9.4.(d) Funds in the UNC Campus Scholarships allocated for doctoral study shall be reallocated based on the proportion of doctoral students enrolled at each of the campuses that have doctoral students. These funds shall continue to be committed only to doctoral students who are North Carolina residents and shall be allocated based on need. The funds previously in the Incentive Scholarship Program for Native Americans at the doctoral level shall be distributed evenly among the campuses with doctoral programs.

SECTION 9.4.(e) The Board of Trustees of each constituent institution shall define its particular campus goals and guidelines for the use of the UNC Campus Scholarships for undergraduates. The chancellor of each constituent institution shall submit its proposed guidelines to the President of The University of North Carolina for approval before implementing them. Only residents of North Carolina shall be eligible to receive grants from the UNC Campus Scholarships. Unless a campus has determined that it has sufficient diversity in its undergraduate student population to provide the educational benefits of diversity, the campus shall use at least the portion of these funds that previously provided Minority Presence Grants for undergraduates to promote diversity within the undergraduate student body of the campus to the extent permitted by the constitution and laws of the State of North Carolina and of the United States.

SECTION 9.4.(f) No constituent institution is required to have a community service requirement for receipt of grants from the UNC Campus Scholarships.

SECTION 9.4.(g) The State Education Assistance Authority shall administer the UNC Campus Scholarships. Upon the naming of recipients of grants from the UNC Campus Scholarships, each constituent institution shall inform the State

Education Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the administrative functions necessary to implement this program. The North Carolina State Education Assistance Authority shall conduct periodic evaluations of expenditures of the UNC Campus Scholarships to determine if allocations are being utilized, are addressing the financial needs of students or other needs identified by the constituent institutions, and are improving diversity on the campuses. SEAA may make recommendations for redistribution of funds to the President of The University of North Carolina who may authorize redistribution of unutilized funds for a particular fiscal year among the constituent institutions.

SECTION 9.4.(h) Each constituent institution shall maintain the current proportion of allocation of these funds for undergraduate Native American students. To be eligible for such a grant, a student must be a resident of North Carolina and must be a Native American, defined as an individual who maintains cultural and political identification as a Native American through membership in an Indian tribe recognized by the State of North Carolina or by the United States. The North Carolina State Education Assistance Authority may redistribute to another constituent institution funds for Native Americans which are uncommitted by January 5 of each fiscal year.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

ELIMINATE UNC MAILING LIST DUPLICATION

SECTION 9.5. Section 10.11 of S.L. 1999-237 reads as rewritten:

"**Section 10.11.** Each constituent institution of The University of North Carolina and each community college shall provide to students and their families a brief, clear explanation of federal tax credits (the HOPE and Lifetime Learning Credits) that are available for educational purposes. The explanation shall include the limitations of the credits as well as examples of the potential benefits under certain tax situations. The constituent institution shall provide the tax credit information to the student ~~and~~ or the student's parents when the institution notifies each of the amount of tuition and fees paid for a calendar year."

Requested by: Senators Dalton, Garrou, Lucas, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

AID TO PRIVATE COLLEGES TECHNICAL CORRECTIONS

SECTION 9.6. G.S. 116-21.4(a) reads as rewritten:

"(a) Expenditures made pursuant to G.S. 116-19, 116-20, 116-21.1, or 116-21.2 may be used only for secular educational purposes at ~~an institution as defined by G.S. 116-22~~ nonprofit institutions of higher learning that meet the qualifications set out in G.S. 116-22."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

UNC FLEXIBILITY GUIDELINES

SECTION 9.7. The Chancellor of each constituent institution shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes in order to meet the reduction reserve amounts for that institution. The President of The University of North Carolina shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes controlled by the Board in order to meet the reduction reserve amounts for those entities. The Board of Governors shall make a summary report to the Fiscal Research Division by October 31, 2002, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

Requested by: Senators Robinson, Weinstein, Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

FOCUSED GROWTH PILOT PROGRAM

SECTION 9.9. The Board of Governors of The University of North Carolina may allow Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University each to allocate up to one hundred seventy-eight thousand three hundred eighty dollars (\$178,380) of the funds allocated to them for focused enrollment growth for a maximum of 20 Prospective Teacher Scholars. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study that will lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. The Board of Governors shall establish guidelines and regulations for this pilot program, including methodology for determining its success in increasing the supply of qualified teachers for North Carolina public schools. The Board shall report its guidelines and regulations to guide these pilot programs to the Joint Legislative Education Oversight Committee by November 15, 2002. The Board shall report annually to the Committee on the progress of the pilot programs and their costs.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Nesbitt, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

REPORT ON UMSTEAD ACT EXEMPTIONS

SECTION 9.10A.(a) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Commission on Governmental Operations prior to March 1, 2003, on activities undertaken under exemptions to the Umstead Act, which are set out in G.S. 66-58(b)(8), for the Centennial Campus of North Carolina State University at Raleigh, the Horace Williams Campus of the University of North Carolina at Chapel Hill, and a Millennial Campus of a constituent institution of The University of North Carolina.

SECTION 9.10A.(b) The report shall include the following information on all such activities undertaken since July 1, 1999:

- (1) The reasons the exemptions were necessary for the development and operation of facilities on the Centennial Campus of North Carolina State University at Raleigh, the Horace Williams Campus of the University of North Carolina at Chapel Hill, or a Millennial Campus of a constituent institution of The University of North Carolina, and
- (2) A specific list of the activities that would have been prohibited without the exemptions.

SECTION 9.10A.(c) The report shall also include:

- (1) A specific list of activities that are necessary to continue the development and operation of these facilities and that would be prohibited if the facilities were not exempt from the provisions of G.S. 66-58(a), and
- (2) A list of the specific exemptions from G.S. 66-58(a) that would be necessary to continue the development and operation of these facilities prohibited if G.S. 66-58(a) applied to the facilities.

Requested by: Senators Dalton, Lucas, Garrou, Clodfelter, Dannelly, Hoyle, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

OUT-OF-STATE INSTITUTIONS WITH NC CAMPUSES

SECTION 9.11.(a) G.S. 116-22 reads as rewritten:

"§ 116-22. Definitions applicable to §§ 116-19 to 116-22.

As used in G.S. 116-19 through 116-22:

- (1) "Institution" shall mean an educational institution with ~~its main~~ a main permanent campus located in this State that is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof, ~~that is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of said Association thereof that satisfies all of the following:~~
 - a. Is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association or by the New England Association of Schools and Colleges through its Commission on Institutions of Higher Education.
 - b. Awards a postsecondary degree as defined in G.S. 116-15. and that is
 - c. Is not a seminary, Bible school, Bible college or similar religious institution.
- (1a) "Main permanent campus" shall mean a campus owned by the institution that provides permanent on-premises housing, food services, and classrooms with full-time faculty members and administration that engages in postsecondary degree activity as defined in G.S. 116-15.
- (2) "Student" shall mean a person enrolled in and attending an institution's main permanent campus located in the State who qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of the University of North Carolina and published in the residency manual of said Board; and a person who has not received a bachelor's degree, or qualified therefor, and who is otherwise classified as an undergraduate under such regulations as the Board of Governors of the University of North Carolina may promulgate. The enrollment figures required by G.S. 116-19 through 116-22 shall be the number of full-time equivalent students as computed under regulations prescribed by the Board of Governors of the University of North Carolina. Qualification for in-State tuition under G.S. 116-143.3 makes a person a "student" as defined in this subdivision.

SECTION 9.11.(b) Notwithstanding the provisions of G.S. 116-22 as enacted by this section, any institution that met the definition of "institution" under G.S. 116-22 on January 1, 2001, shall continue to be eligible to receive funds appropriated in compliance with G.S. 116-19 through G.S. 116-22 when this act becomes law, if it received funds for these purposes as of January 1, 2001.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS

SECTION 9.12.(a) The Joint Legislative Education Oversight Committee shall study the North Carolina School of Science and Mathematics. In its study the Committee may consider all of the following with regard to the School: the purpose and goals of the School and whether those are still appropriate; the academic programs; student admission policies; administrative functions and personnel policies; finances, properties, and any financial obligations of the School; and any other relevant issues. The Joint Legislative Education Oversight Committee shall report its findings and recommendations to the 2003 General Assembly.

SECTION 9.12.(b) Notwithstanding any other provision of law, neither the fee of eight hundred fifty dollars (\$850.00) proposed by the Board of Trustees or any other fee shall be imposed for the 2002-2003 academic year.

SECTION 9.12.(c) G.S. 116-235(d) is amended by adding a new subdivision to read:

"(7) The Board of Trustees shall not impose any fee without the approval of the General Assembly, unless the fee is a traffic, parking, or motor vehicle registration fee authorized under subsection (e) of this section."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Gibson, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Easterling, Oldham, Redwine

HORACE WILLIAMS AIRPORT

SECTION 9.13.(a) The University of North Carolina at Chapel Hill shall not close the Horace Williams Airport before January 1, 2005.

SECTION 9.13.(b) Prior to moving Medical Air, Inc., from the Horace Williams Airport, the Chancellor of the University of North Carolina at Chapel Hill shall consult with the Joint Legislative Commission on Governmental Operations regarding the feasibility, cost, and impact on the effectiveness of AHEC services to the public that will result from the proposed move.

Requested by: Senators Dalton, Lucas, Garrou, Albertson, Kerr, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney, Easterling, Oldham, Redwine

COOPERATIVE EXTENSION/AGRICULTURAL RESEARCH FACULTY

SECTION 9.14. The Board of Governors shall promulgate policies that permit currently designated "EPA Non-Teaching" positions in the Cooperative Extension Service or Agricultural Research budgets of the constituent institutions of the university to be changed to "EPA Teaching" positions, if it is deemed by the Chancellor of any constituent institution of the university to be a more accurate definition of the faculty positions' job responsibilities.

Requested by: Senators Dalton, Lucas, Garrou, Rand, Kerr, Plyler, Odom, Lee; Representatives Rogers, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Easterling, Oldham, Redwine

UNC INSTITUTIONS/GOLF COURSE AND TRANSIENT ACCOMMODATIONS FACILITY/UMSTEAD ACT EXEMPTION REPORTING REQUIREMENT

SECTION 9.15.(a) G.S. 66-58 is amended by adding a new subsection to read:

"(h) Notwithstanding the provisions of G.S. 66-58(b)(8), The University of North Carolina, its constituent institutions, the Centennial Campus of North Carolina State University, the Horace Williams Campus of the University of North Carolina at Chapel Hill, a Millennial Campus of a constituent institution of The University of North Carolina, or any corporation or other legal entity created or directly controlled by and using land owned by The University of North Carolina shall consult with and provide the following information to the Joint Legislative Commission on Governmental Operations before issuing debt or executing a contract for a golf course or for any transient accommodations facility, including a hotel or motel:

- (1) Architectural concepts.
- (2) Financial and debt service projections.
- (3) Business plans.
- (4) Operating plans.
- (5) Feasibility studies and consultant reports."

SECTION 9.15.(b) This section does not apply if the golf course or transient accommodations facility is owned, operated, or leased by The University of North Carolina or one of its constituent institutions on or before July 1, 2002. This section is effective when it becomes law.

SECTION 9.15.(c) This section is effective when this act becomes law.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Nesbitt, Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

REPORT ON UNIVERSITY FISCAL LIABILITIES

SECTION 9.16. The Board of Governors shall report on an annual basis to the Joint Legislative Commission on Governmental Operations on:

- (1) Any financing of buildings or other facilities, regardless of the ownership of those buildings or other facilities, located on land owned by The University of North Carolina or the constituent institutions of The University of North Carolina; and
- (2) All fiscal liabilities or contingent liabilities, including payments for debt service or other contractual arrangements, of The University of North Carolina or any constituent institution.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee;
Representatives Boyd-McIntyre, Rogers, Yongue, Michaux, Smith, Hackney,
Easterling, Oldham, Redwine

FUNDS FOR NEED-BASED SCHOLARSHIPS

SECTION 9.19.(a) G.S. 116B-7 reads as rewritten:

"§ 116B-7. Distribution of income of fund.

The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before July 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, ~~Article 23~~, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges."

SECTION 9.19.(b) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of nineteen million seven hundred twenty-five thousand dollars (\$19,725,000) for the 2002-2003 fiscal year and to the State Board of Community Colleges the sum of one million dollars (\$1,000,000) for the 2002-2003 fiscal year. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

SECTION 9.19.(c) The Director of the Budget shall include General Fund appropriations in the amounts provided in subsection (b) of this section in the proposed 2003-2005 continuation budget for the purposes provided in G.S. 116B-7.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine

INFORMATION TECHNOLOGY PROJECT CONTRACTS

SECTION 10.1. Section 21.17 of S.L. 2001-424 reads as rewritten:

"SECTION 21.17.(a) Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may establish special time-limited positions ~~in the Division of Information Research Management for an information technology project to maximize efficiencies in the preparation for and for~~ implementation of federal requirements ~~of the medical records privacy standards~~ under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Positions established are not permanent positions, not subject to the State Personnel Act under G.S. 126-1.1, and not subject to the State salary schedule.

SECTION 21.17.(b) Positions established pursuant to this section may commence no earlier than July 1, 2001, and shall expire ~~June 30, 2003.~~June 30, 2005."

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

ADMINISTRATIVE CONSOLIDATION OF DIVISIONS OF SERVICES FOR THE DEAF AND THE HARD OF HEARING, SERVICES FOR THE BLIND, AND VOCATIONAL REHABILITATION SERVICES

SECTION 10.2.(a) The following three divisions may continue consolidating their administrative functions and reducing the number of cities where there are two or more district offices:

- (1) Division of Services for the Deaf and the Hard of Hearing.
- (2) Division of Services for the Blind.
- (3) Division of Vocational Rehabilitation Services.

SECTION 10.2.(b) The Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on activities carried out under this section not later than June 1, 2003. This report shall include the following:

- (1) An organizational chart showing how the administrative structure of the divisions has changed.
- (2) A plan for reducing the number of cities where there are two or more district offices.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

STAFFING REQUIREMENTS IN LONG-TERM CARE FACILITIES

SECTION 10.3.(a) The Department of Health and Human Services, Office of Long-Term Care, shall review staffing requirements of Adult Day Care Programs and Adult Day Health Programs.

SECTION 10.3.(b) The Department shall report the results of its review to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2002. The report shall include staffing requirements for adult day care and adult day health programs as compared to adult care homes, assisted living facilities, and nursing homes in the State. The report shall also compare staffing ratios in North Carolina to those of other states, including those states that border North Carolina. The report shall be conducted by the Department, Office of Long-Term Care, or by an independent contractor and shall contain all of the following specific information:

- (1) Number of staff required per resident.
- (2) Education/work experience required and preferred as a basis for hire.
- (3) Specific job duties outlined in job descriptions.

- (4) Rationale and justification for establishing the existing staff ratios in the Division of Aging's policy for adult day care and adult day health care.
- (5) An analysis of the variance in staffing requirements among adult day care and adult day health programs, adult care homes, assisted living facilities, and nursing homes.
- (6) Identification of the entities responsible for licensing and monitoring quality for all providers of long-term care in the State.
- (7) Recommendations for changes to existing policies based on findings of the Department's review.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

REPORT ON SERVICES PROVIDED TO OLDER ADULTS

SECTION 10.4. The Department of Health and Human Services, Office of Long-Term Care shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on services provided to older adults. The report shall provide information as follows:

- (1) Identify all State agencies that provide services to adults age 60 and older throughout the State.
- (2) All resources available from all sources, including federal, State, and local funds and personnel, for providing services to this population.
- (3) Plans for reducing administration through the consolidation of functions throughout Divisions of the Department.

The Office of Long-Term Care shall consult with experts in long-term care and other relevant information sources to develop a plan to streamline services for older adults at the local level. The Department shall submit its report not later than February 1, 2003.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

RURAL HEALTH LOAN REPAYMENT INCENTIVE PROGRAM

SECTION 10.5. The Department of Health and Human Services, Office of Rural Health, shall conduct an assessment of the Rural Health Loan Repayment Incentive Program. The assessment shall consider whether the Program should be continued and shall identify ways to recruit additional providers to rural areas within existing funds. The Department shall report on its activities and progress of the assessment to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than December 1, 2002. The report shall provide detailed information on the number of providers recruited, identification of the counties in which the providers are recruited, and the amount of loan repayment and length of service to a community for each provider.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

ACCESS TO PHARMACEUTICAL COMPANY PRESCRIPTION DRUG PROGRAMS

SECTION 10.6. Section 21.6(a) of S.L. 2001-424, as amended by S.L. 2001-513, reads as rewritten:

"**SECTION 21.6.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred thousand dollars (\$200,000) for the 2001-2002 fiscal year ~~and the sum of two hundred thousand dollars (\$200,000) for the 2002-2003 fiscal year~~ shall be used to initiate the development of a system to assist

eligible individuals in obtaining prescription drugs at no cost through pharmaceutical company programs. The system will be designed to minimize the efforts of patients and their health care providers in securing needed drugs. The required patient and health care provider data will be maintained and orders tracked in order to initiate timely reorders of needed drugs to assure continuity of medication intake. The Department may contract with a private nonprofit organization to assist in the development of the system as provided under this section."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

USE OF FUNDS FOR THE CHILD ADVOCACY INSTITUTE

SECTION 10.7. State funds appropriated for the Child Advocacy Institute shall be used only for administration of the Child Advocacy Institute or for research and other services provided by the Institute. These funds shall not be used or replaced by other funds for (i) lobbying or other governmental affairs activities or (ii) direct contributions to other nongovernmental entities.

This section shall not be construed to prohibit the Institute from using State funds to contract with other nongovernmental entities for the purchase of goods or services.

Requested by: Senators Martin of Guilford, Purcell, Hoyle, Plyler, Odom, Lee; Representatives Earle, Nye, Church, Easterling, Oldham, Redwine

CONSOLIDATION OF MAINTENANCE ACTIVITIES

SECTION 10.8.(a) The Department of Health and Human Services shall develop a plan to consolidate building maintenance activities at the North Carolina School for the Deaf at Morganton, the Western Carolina Center, and Broughton Hospital. The plan shall assess the needs for maintenance at all three centers, determine the level of staff necessary to carry out all of the current activities with fewer managers, supervisors, and other staff, and develop a new single budget for the maintenance activities.

SECTION 10.8.(b) The Department of Health and Human Services shall identify other facilities throughout the State that are in close proximity to one another and assess the feasibility of consolidating the building maintenance activities at those facilities.

SECTION 10.8.(c) The Department of Health and Human Services shall report on activities carried out under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than December 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

WEATHERIZATION ASSISTANCE

SECTION 10.10B. The Department of Health and Human Services may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

EFFECTIVE DATE OF LONG-TERM CARE CRIMINAL CHECK FOR EMPLOYMENT POSITIONS

SECTION 10.10C. Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131E-265 for nursing homes to conduct national

criminal history record checks for employment positions other than those involving direct patient care shall become effective no earlier than January 1, 2004. Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131D-2 for adult care homes to conduct national criminal records checks for all staff positions shall become effective no earlier than January 1, 2004.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

TRANSFER NORTH CAROLINA COUNCIL ON THE HOLOCAUST TO DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 10.10D.(a) G.S. 143B-216.20, 143B-216.21, 143B-216.22, and 143B-216.23 are recodified as subsections (a) through (d) of new G.S. 143A-48.1 in Article 5 of Chapter 143A of the General Statutes.

SECTION 10.10D.(b) G.S. 143A-48.1, as codified by this section, reads as rewritten:

"§ 143A-48.1. **North Carolina Council on the Holocaust; creation; ~~purpose; purpose; membership; expenses; assistance.~~**

(a) There is hereby created the North Carolina Council on the Holocaust. The purpose of the Council is to prevent future atrocities similar to the systematic program of genocide of six million Jews and others by the Nazis. This purpose shall be accomplished by developing a program of education and observance of the Holocaust.

(b) The Council shall consist of 24 members, six appointed by the Governor, six appointed by the President Pro Tempore of the Senate, six appointed by the Speaker of the House of Representatives, and six appointed by the other 18 members. Members shall be appointed ~~in 1985 for two year terms to begin July 1, 1985. In 1987 and biennially thereafter, successors shall be appointed for two year terms.~~ for two-year terms to begin July 1 of each odd-numbered year. The six at-large appointments shall be made by the Council at its first meeting after July 1 of each odd-numbered year. To be eligible for appointment as an at-large member, a person must either be a survivor of the Holocaust or a first-generation lineal descendant of such person. A majority of the members shall constitute a quorum for the transaction of business.

(c) The members of the Council shall be compensated and reimbursed for their expenses in accordance with G.S. 138-5.

(d) ~~The Secretary Superintendent of Public Instruction~~ may arrange for clerical or other assistance required by the Council."

SECTION 10.10D.(c) G.S. 143B-138.1(b)(14) is repealed.

SECTION 10.10D.(d) The North Carolina Council on the Holocaust, as created by Part 28 of Article 3 of Chapter 143B of the General Statutes, and recodified as G.S. 143A-48.1 by this section, is transferred to the Department of Public Instruction by a Type II transfer, as defined in G.S. 143A-6.

SECTION 10.10D.(e) This section becomes effective October 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

NONMEDICAID REIMBURSEMENT CHANGES

SECTION 10.10E. Section 21.59 of S.L. 2001-424 reads as rewritten:

"**SECTION 21.59.** 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.

The Department of 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 Health and Human Services may negotiate with providers of medical services under the various Department of 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:

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>All Rehabilitation</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
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	7,821		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 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 adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) 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 adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) 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:

<u>Income</u> (% of poverty)	<u>State Participation</u>	<u>Client Participation</u>
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of 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."

SUBPART 2. DIVISION OF MEDICAL ASSISTANCE

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MEDICAID PROGRAM

SECTION 10.11.(a) Section 21.19 of S.L. 2001-424 reads as rewritten:

"SECTION 21.19.(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 Health and Human Services.
- (2) Hospital-Outpatient – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of 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 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. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.
- (4) Intermediate Care Facilities for the Mentally Retarded – As prescribed in the State Plan as established by the Department of 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 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 Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners – Fee schedules as

developed by the Department of 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 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 Health and Human Services.
- (9) Medicare Buy-In – Social Security Administration premium.
- (10) Ambulance Services – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (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 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 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 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 Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.
- (19) Personal Care Services – Payment in accordance with the State Plan approved by the Department of Health and Human Services.
- (20) Case Management Services – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
- (21) Hospice – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.
- (22) Other Mental Health Services – Unless otherwise covered by this section, coverage is limited to:
 - a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in 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 Health and Human Services not to exceed the upper limits established in federal regulations, and
 - b. For children eligible for EPSDT services:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and
2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-121.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under paragraphs a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

- (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.
- (24) Health Insurance Premiums – Payments to be made in accordance with the State Plan adopted by the Department of 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 Health and Human Services.
- (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.

Payment is limited to Medicaid enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program.

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, emergency rooms,

and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of 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.

SECTION 21.19.(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.

SECTION 21.19.(c) Copayment for Medicaid Services. – The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

SECTION 21.19.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

<u>Family Size</u>	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u>	<u>Families and Children Income Level</u>	<u>AA, AB, AD*</u>
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

*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 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.

SECTION 21.19.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, 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.

SECTION 21.19.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of 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:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

SECTION 21.19.(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.

SECTION 21.19.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, 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 has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. 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).

SECTION 21.19.(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 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, contracting for services, 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. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 21.19.(j) Volume Purchase Plans and Single Source Procurement. – The Department of 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 contracting processes in order to improve cost containment.

SECTION 21.19.(k) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 21.19.(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.

SECTION 21.19.(m) The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

SECTION 21.19.(n) The Department of 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. In determining

income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.

- (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 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.

SECTION 21.19.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

SECTION 21.19.(p) The Department shall disregard earned income for recipients who would otherwise lose Medicaid eligibility under section 1931 of Title XIX of the Social Security Act due to earnings. This disregard shall be applied for a maximum of 12 consecutive months.

SECTION 21.19.(q) The Department of Health and Human Services shall submit a quarterly 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. The quarterly expenditure report and the revised forecast 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 following the end of each quarter.

SECTION 21.19.(r) The Division of Medical Assistance, Department of 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.

SECTION 21.19.(s) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of 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. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.

SECTION 21.19.(t) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, 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.

SECTION 21.19.(u) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services or the Joint Legislative Health Care Oversight Committee 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 Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval.

SECTION 21.19.(v) Upon approval of a demonstration waiver by the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

SECTION 21.19.(w) The Department of Health and Human Services, Division of Medical Assistance, shall use the latest audited cost reporting data available when establishing Medicaid provider rates or when making changes to the reimbursement methodology. For hospital services, the division shall use the latest audited cost reporting data available, supplemented by additional financial information available to the Division if and to the extent that the Division concludes that the information is reliable and relevant, when establishing rates or when making changes to the reimbursement methodology.

SECTION 21.19.(x) The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

SECTION 21.19.(y) The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, Section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing" "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, Section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, Section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

SECTION 10.11.(b) Effective not earlier than January 1, 2003, G.S. 108A-70.5(b) reads as rewritten:

"(b) As used in this section:

- (1) "Medical assistance" means medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient:
 - a. If the recipient is receiving these medical care services as an inpatient in a nursing facility, intermediate care facility for the

- mentally retarded, or other medical institution, and cannot reasonably be expected to be discharged to return home; or
- b. If the recipient is 55 years of age or older and is receiving these medical care services, including related hospital care and prescription drugs, for nursing facility ~~services—services,~~ personal care services, or home- and community-based services.
- (2) "Estate" means all the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1."

SECTION 10.11.(c) When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the Supplemental Security Income (SSI) method.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

CAROLINA ACCESS PROGRAM IMPROVEMENTS

SECTION 10.12.(a) In its effort to achieve anticipated savings in the Medicaid Program of nine million four hundred twenty-five thousand dollars (\$9,425,000) for the 2002-2003 fiscal year through expansion of the Carolina ACCESS II and Carolina ACCESS III programs, the Department of Health and Human Services shall monitor cost-savings activities of these programs. Carolina ACCESS II and Carolina ACCESS III programs shall provide the Department detailed information on savings realized from the following cost-savings activities:

- (1) Reductions in hospital admissions;
- (2) Reductions in emergency room visits;
- (3) Use of best-prescribing practices;
- (4) Increased prescriptions of generic drugs;
- (5) Implementation of polypharmacy review;
- (6) Reductions in therapy visits;
- (7) Improved management of high-risk/high-cost patients; and
- (8) Other strategies implemented by the programs to achieve anticipated savings.

SECTION 10.12.(b) The Department of Health and Human Services shall implement a process for the assessment and review of cost-effectiveness of the Carolina ACCESS II and Carolina ACCESS III programs. The Division of Medical Assistance shall confirm actual savings realized from the use of case management strategies of the Carolina ACCESS II and Carolina ACCESS III demonstration sites. Beginning December 1, 2002, the Department shall report quarterly the cost-effectiveness of these programs based on actual savings achieved. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Oldham

REPEAL CIRCUMCISION FUNDS

SECTION 10.13. Section 19 of S.L. 2001-513 reads as rewritten:

"SECTION 19. Notwithstanding any other provision of law to the contrary, from funds available in the General Fund, there is appropriated to the Department of Health and Human Services, Division of Medical Assistance, the sum of two hundred forty-six thousand, seven hundred sixty-two dollars (\$246,762) for the 2001-2002 fiscal year ~~and the sum of four hundred thousand dollars (\$400,000) for the 2002-2003 fiscal year.~~

These funds shall be used to provide optional circumcision procedures for newborns eligible for Medicaid."

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MEDICAID CASE MANAGEMENT SERVICES

SECTION 10.14.(a) The Department of Health and Human Services shall reduce Medicaid Program expenditures for case management services for adults and children for the 2002-2003 State fiscal year. In determining how to allocate this reduction, the Department shall include all State programs currently providing case management services reimbursed by the Medicaid Program, and shall consider the following issues:

- (1) Elimination of all duplicative case management services.
- (2) Consolidation of similar case management services.
- (3) Provision of only one case manager per family reimbursed through the Medicaid Program, when feasible.
- (4) Equitable allocation of reductions in case management services reimbursed by Medicaid among the different programs that provide case management services.
- (5) Identification of the children and adults with the greatest case management needs to determine how to allocate reductions and remaining resources.
- (6) Reductions in administrative costs associated with providing case management services reimbursed by Medicaid.
- (7) Reductions in reimbursement to case management service providers.

SECTION 10.14.(b) Not later than November 1, 2002, the Department shall report on its plan for the reductions required in this section. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

FEDERAL WAIVERS TO ASSIST IN MEDICAID COST CONTAINMENT

SECTION 10.15.(a) The Department of Health and Human Services shall develop a plan for using federal waivers to assist in long-term cost containment for the State's Medicaid program. In developing the plan, the Department shall determine whether single or multiple federal waivers will help the State achieve its goal of long-term cost containment for the State's Medicaid program, and shall also determine which type of waiver is likely to be most helpful. The Department shall consider all of the following for development of the plan:

- (1) Which optional categories of persons eligible for Medicaid will be covered by the waiver.
- (2) What optional Medicaid services will be included in the service package covered by the waiver.
- (3) What types of cost-sharing will be required under the waiver.
- (4) Will the waiver use Carolina ACCESS, other types of managed care, or will a fee-for-service system for providing health care services be used.
- (5) Will private insurance coverage options be incorporated into the waiver.
- (6) Should the NC Health Choice Program be included in the waiver.

SECTION 10.15.(b) On or before February 1, 2003, the Department shall report on its plan for seeking federal waivers to achieve long-term cost containment in

the State's Medicaid program. The report shall be made to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division, and shall include the following:

- (1) Copy of the application for the waiver.
- (2) Description of how the waiver will help achieve long-term cost containment in the State's Medicaid program.
- (3) Description of legislation necessary to implement the proposed waiver.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

COMMUNITY ALTERNATIVES PROGRAMS

SECTION 10.16.(a) The Department of Health and Human Services shall administer all Community Alternatives Program (CAP) waivers in the most economical and efficient manner possible to support within funds appropriated the maximum number of persons meeting participation requirements under the waivers. The Department shall amend the waivers to ensure that participation requirements and payment and service limits will ensure that the maximum number of persons meeting participation requirements are served by all waivers. Not later than November 1, 2002, the Department shall submit a report that outlines efficient use of funds appropriated and that demonstrates the participation requirements, payment and service limits, and other administrative actions to support the maximum number of persons to be served in the applicable State fiscal year. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.16.(b) Community Alternatives Program for Disabled Adults (CAP/DA) services shall be provided for the 2002-2003 fiscal year to any eligible person who entered a nursing facility on or before June 1, 2002, notwithstanding that the availability of CAP/DA services may be suspended for that fiscal year.

SECTION 10.16.(c) The North Carolina Institute of Medicine shall conduct a study of the CAP/DA administered by the Department of Health and Human Services and shall recommend ways of improving the administration of CAP/DA. In conducting the study, the Institute shall consider the following:

- (1) Whether the lead agency for CAP/DA should also be a provider of direct services under CAP/DA.
- (2) Whether case managers should be employed by the provider agency.
- (3) Whether funds for CAP/DA should be reduced below the ninety percent (90%) maximum that currently exists.
- (4) Review current policy for service requirements, management, and supervision as it pertains to strengthening the family and case manager and agency requirements.
- (5) Whether case managers and provider agencies should have increased responsibility for upholding guidelines.
- (6) Whether oversight of CAP/DA by the Division of Medical Assistance needs strengthening.
- (7) Alternative funding sources for CAP/DA.
- (8) Determination of funding needs for CAP/DA based on corroboration with long-term care policy initiatives.
- (9) What changes should be made to CAP/DA to reduce cost of services per person in order to serve more individuals within existing funds.
- (10) Any other matters the North Carolina Institute of Medicine considers pertinent to the study.

The North Carolina Institute of Medicine shall report its findings and recommendations to the 2003 General Assembly upon its convening.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CHANGE

SECTION 10.17.(a) Disproportionate share receipts reserved at the end of the 2002-2003 fiscal year shall be deposited with the Department of State Treasurer as nontax revenue for the 2002-2003 fiscal year.

SECTION 10.17.(b) For the 2002-2003 fiscal year, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred seven million dollars (\$107,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of the one hundred seven million dollars (\$107,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MEDICAID HOSPITAL PAYMENTS

SECTION 10.18. The Department of Health and Human Services shall reduce Medicaid payments to hospitals by one-half of one percent (.5%) for the 2002-2003 State fiscal year. The Department shall evaluate all medical payment programs and policies administered by the Department that may affect the future viability and sustainability of financially vulnerable hospitals. Based on the evaluation of the medical payments programs and policies affecting hospitals, the Department shall implement the one-half of one percent (.5%) reduction for the 2002-2003 State fiscal year such that the reduction has the least impact on the future viability and sustainability of financially vulnerable hospitals. The Department shall also review the status of financially vulnerable hospitals to determine whether additional State actions are appropriate to ensure that communities served by these hospitals continue to receive essential medical services. The Department shall consult with the North Carolina Hospital Association while conducting the evaluation of medical payment programs and policies and determining how to implement the one-half of one percent (.5%) reduction. The Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on its activities under this section not later than November 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MEDICAID PROGRAM MANAGEMENT

SECTION 10.19.(a) Section 21.26(b) of S.L. 2001-424 reads as rewritten:

"SECTION 21.26.(b) The Department shall implement a pharmacy management plan considering the recommendations of the "North Carolina Medicaid Benefit Study" to achieve anticipated cost savings. The pharmacy management plan may include the following activities:

- (1) Establishing a prior authorization program to manage utilization of high-cost, brand name drugs. In determining drugs to be included in the prior authorization program, the Department shall consider whether inclusion of these drugs is likely to:
 - a. Increase utilization of more expensive services;

- b. Reduce quality of treatment;
- c. Result in a lower level of compliance with appropriate drug therapy; and
- d. Have a differential impact upon racial and ethnic minorities and the elderly.

The Department shall conduct a review at least annually of the drugs included in the prior authorization program to determine whether any of the factors listed in this subdivision or other factors with similar results have occurred.

- (2) Limiting prescription drugs to a 34-day supply for some or all drugs.
- (3) Developing physician prescribing practice profiles and other educational tools to enable physicians to better manage their prescriptions.
- (4) Establishing therapeutic limits based on appropriate dosage or usage standards.
- (5) Encouraging use of generic drugs.
- (6) Using maximum allowable pricing.
- (7) Contracting with a pharmacy benefits manager to implement more extensive drug utilization review.
- (8) Studying the impact of eliminating the six prescription drug monthly limit combined with a more rigorous prior authorization program to ensure cost decisions are made based on evidence-based clinical guidelines.
- (9) Expanding disease management initiatives.
- (10) Working with ACCESS physicians to develop and implement drug utilization management initiatives.
- (11) If cost-effective, expanding Medicaid drug coverage to include selected over-the-counter medications.

The Department may adopt temporary rules in accordance with G.S. 150B-21.1 when it finds these rules are necessary to clarify recipient appeal rights related to the pharmacy management plan."

SECTION 10.19.(b) The Secretary of Health and Human Services shall not require supplemental rebates from pharmaceutical manufacturers.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

LONG-TERM CARE REIMBURSEMENT METHODOLOGY

SECTION 10.19A. When establishing a new reimbursement methodology for long-term care services including nursing facilities, ICF-MRs, and adult care homes, the Department of Health and Human Services, Division of Medical Assistance, shall do the following:

- (1) Use the latest cost data available;
- (2) Establish reimbursement rates that will allow Medicaid long-term care providers to comply with certification requirements, licensure rules, or other mandated quality or safety standards;
- (3) Consider available data related to long-term care industry costs and losses, including those resulting from the health care workforce crisis and the increase in professional liability insurance premiums; and
- (4) Consider the effect on future viability and sustainability of financially vulnerable long-term care providers.

The Division of Medical Assistance and any contract agencies performing the functions associated with this section shall consult with provider organizations, including the North Carolina Health Care Facilities Association, the Long-Term Care Facilities Association of North Carolina, the North Carolina Assisted Living Association, the

North Carolina Developmental Disabilities Facilities Association, and the North Carolina Association of Non-Profit Homes for the Aging. The Department shall report on the reimbursement methodology not later than January 1, 2003, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

INCREASES IN FEDERAL MEDICAID FUNDS

SECTION 10.19C.(a) Notwithstanding any other provision of law to the contrary, the total amount of State funds that become available to the Department of Health and Human Services for the 2002-2003 fiscal year due to an increase in federal Medicaid funds resulting from increases in the Federal Financial Participation rate shall be used to increase funds appropriated to the Department for the 2002-2003 fiscal year for the Medicaid program without any reduction in what is otherwise allocated to the Department from appropriated funds.

SECTION 10.19C.(b) The Department of Health and Human Services, Division of Medical Assistance, may reinstate eligibility policies changed by this act when all of the following conditions are met:

- (1) Congress approves enhanced Federal Financial Participation for State Medicaid programs.
- (2) Receipt of the enhanced Federal Financial Participation is dependent on a state's maintenance of effort in Medicaid eligibility.
- (3) The Department has concluded that the enacted policy changes render the State ineligible for the enhanced Federal Financial Participation.
- (4) Enhanced Federal Financial Participation receipts exceed the anticipated savings in State funds from the enacted policy changes.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MEDICAID RESERVE FUND TRANSFER

SECTION 10.19D. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G. S. 143-23.2, the sum of forty-three million seven hundred forty-seven thousand five hundred thirty-eight dollars (\$43,747,538) for the 2002-2003 fiscal year 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 reduction in general revenue funding effected in this act.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

NC HEALTH CHOICE

SECTION 10.20.(a) G.S. 108A-70.21 reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

- (1) Children must:

- a. Be under the age of 19;
 - b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
 - c. Be uninsured;
 - d. Be in a family that meets the following family income requirements:
 - 1. Infants under the age of one year whose family income is from one hundred eighty-five percent (185%) through two hundred percent (200%) of the federal poverty level;
 - 2. Children age one year through five years whose family income is above one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level; and
 - 3. Children age six years through eighteen years whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;
 - e. Be a resident of this State and eligible under federal law; and
 - f. Have paid the Program enrollment fee required under this Part.
- (2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.
- (3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.
- If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.
- (4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, including optional prepaid plans. Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the average wholesale price for the prescription drug or the amounts published by the Health Care Financing Administration Centers for Medicare and Medicaid Services plus a fee established by the provider not to exceed the amount authorized under subdivision ~~(d)(3) of this section.~~ dispensing fee of five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. All other health care providers providing services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under

the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for services less any copayments assessed to enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program shall be required by the Plan to change health care providers as a result of being enrolled in the Program.

In addition to the benefits provided under the Plan, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

- (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X rays once every 60 months, supplemental bitewing X rays showing the back of the teeth once during a 12-month period, fluoride applications twice during a 12-month period, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association.
- (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval of the Plan. Upon prior approval by the Plan, refractions may be covered more often than once every 12 months.
- (3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other hearing aid specialist approved by the Plan. Prior approval of the Plan is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. Families covered under the Program whose family income is above one hundred fifty percent

(150%) of the federal poverty level shall be responsible for copayments to providers as follows:

- (1) Five dollars (\$5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
- (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- (3) A six-dollar (\$6.00) fee for each outpatient prescription drug purchased;
- (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 - a. The child is admitted to the hospital, or
 - b. No other reasonable care was available as determined by the Claims Processing Contractor of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. – The total annual aggregate cost-sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved. To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall provide data to the Department showing cost-sharing paid by Program enrollees.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (g) of this section."

SECTION 10.20.(b) The dispensing fee for prescription drugs required under G.S. 108A-70.21(b), as enacted by this section, shall become effective not later than January 1, 2003.

SECTION 10.20.(c) It is the intent of the General Assembly to consider the recommendations of the Institute of Medicine study in determining whether Medicaid rates or some other rates should apply to Program services.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

NC HEALTH CHOICE STATE PLAN TECHNICAL AMENDMENTS

SECTION 10.21. The Department of Health and Human Services may rewrite and submit to the federal government the State Plan for the North Carolina Health Choice Program solely for the purpose of incorporating amendments enacted by the 1997 General Assembly, Regular Session 1998, the 1999 General Assembly, and the 2001 General Assembly, and to otherwise comply with applicable federal requirements. Nothing in this section authorizes the Department to make amendments to the State Plan for the North Carolina Health Choice Program not otherwise authorized by the General Assembly. Amendments to the State Plan required by the federal government to be implemented after the effective date of this section, other than those authorized by this section, shall comply with G.S. 108A-70.25.

SUBPART 3. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

ALLOCATION OF REDUCTIONS IN FUNDS FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES PROGRAMS

SECTION 10.23.(a) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall allocate reductions to Division central administration to items of expenditures which have the least impact on:

- (1) The support of direct services to individuals served in State facilities and local programs;
- (2) The Division's ability to reorganize and continue implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services; and
- (3) The Division's ability to meet State and federal requirements such as monitoring, program oversight, and reporting.

SECTION 10.23.(b) All reductions designated for Division-operated State facilities shall be allocated as follows:

- (1) In a manner that has the least impact possible on the State's ability to comply with Olmstead vs. L.C. & E.W. and The Civil Rights of Institutionalized Persons Act (CRIPA).
- (2) Maximum resources shall be retained for the purpose of transfer to local programs for community capacity building as the population in State facilities decreases and the principal focus of services transitions to community-based programs.
- (3) As deemed essential by the Secretary of the Department of Health and Human Services for compliance with implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services, and with Olmstead vs. L.C. & E.W. and CRIPA, reduction amounts and total number of positions reduced may be shifted among

facilities so long as the aggregate reduction in State appropriations is achieved.

SECTION 10.23.(c) The Department shall report not later than November 1, 2002, on a plan for allocating the reductions required under this section. The plan shall describe each reduction allocation demonstrating compliance with this section. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

SUBSTANCE ABUSE PREVENTION SERVICES

SECTION 10.24.(a) In order to ensure that individuals receive effective substance abuse prevention services, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these individuals:

- (1) Designate an Office of Substance Abuse Prevention within the Department as outlined in the North Carolina Comprehensive Strategic Plan for Substance Abuse Prevention. This Office shall be responsible for the implementation of the goals in the Comprehensive Strategic Plan for Substance Abuse Prevention. The Office shall also maintain the Interagency Agreement for Substance Abuse Prevention Services and ensure continuing collaboration between agencies that are parties to the Agreement.
- (2) Provide only those prevention services that are evidence-based and have been determined to be effective in preventing alcohol and other drug problems.
- (3) Propose rules for the licensure of prevention programs to ensure quality of service delivery in local communities. Rules shall be subject to review and adoption by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (4) Ensure that services are provided by qualified prevention professionals.
- (5) Implement an outcome-based system utilizing standard risk assessments and data elements consistent with appropriate evaluation of prevention programs.

SECTION 10.24.(b) The Department shall report on its activities under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

PRIVATE AGENCY UNIFORM COST-FINDING REQUIREMENT

SECTION 10.25. Section 21.56 of S.L. 2001-424, as amended by S.L. 2001-513, reads as rewritten:

"SECTION 21.56.(a) To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with ~~two or more area programs, an area program or county program,~~ except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

SECTION 21.56.(b) If a private agency fails to timely and accurately complete the required agency-wide uniform cost finding in a manner acceptable to the Department's controller's office, the Department may suspend all Department funding and payment to the private agency until such time as an acceptable cost finding has been completed by the private agency and approved by the Department's controller's office."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
WHITAKER SCHOOL

SECTION 10.26. Section 21.61(a) of S.L. 2001-424 reads as rewritten:

"SECTION 21.61.(a) The Department of Health and Human Services shall work with families and guardians, the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and appropriate local education agencies, area mental health, developmental disabilities, and substance abuse programs, and local departments of social services to develop a plan for the transition of children from the Whitaker School to their homes or alternative facilities. The Plan shall ensure appropriate and safe placement for those children who, in accordance with the assessment, need an institutional setting. The Plan shall also include transition plans that facilitate and support children living in their natural environments and utilizing existing resources and natural supports. Assessments and service planning alternatives shall also be undertaken for children on the waiting list for placement at Whitaker School to ensure appropriate and safe placement for those children. The Department shall report on the status of its compliance with this section on April 1, 2002 and again on ~~October 1, 2002.~~ January 1, 2003. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
AREA MENTAL HEALTH ADMINISTRATIVE COSTS

SECTION 10.27. Section 21.65 of S.L. 2001-424 reads as rewritten:

"SECTION 21.65.(a) Area mental health, developmental disabilities, and substance abuse authorities or counties administering mental health, developmental disabilities, and substance abuse services shall develop and implement plans to reduce local administrative costs. The plans shall be developed in accordance with guidelines adopted by the Secretary, in consultation with the Local Government Commission and the North Carolina Association of County Commissioners, and in accordance with the following:

- (1) For the 2001-2002 fiscal year, administrative costs for:
 - a. Area mental health, developmental disabilities, and substance abuse services programs shall not exceed fifteen percent (15%).
 - b. Counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed fifteen percent (15%).
- (2) For the 2002-2003 fiscal year, administrative costs for:
 - a. Area mental health, developmental disabilities, and substance abuse services programs shall not exceed thirteen percent (13%).
 - b. Counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed thirteen percent (13%).

SECTION 21.65.(b) The Department of Health and Human Services shall report its progress in complying with this section not later than January 1, 2002, and April 15, 2002. The reports shall be submitted to the Senate Appropriations Committee on Health

and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division and shall include:

- (1) A description of the process used and the participants involved in complying with subsection (a) of this section.
- (2) The guidelines developed under subsection (a) of this section.
- (3) A description of local compliance initiatives and efforts including program or function consolidation.
- (4) A list of area programs at or below the targeted thirteen percent (13%) for the 2000-2001 fiscal year.
- (5) Projected savings in administrative costs as a result of implementation of the targeted limits required under this section.

SECTION 21.65.(c) Beginning in the 2002-2003 fiscal year, the Department may implement alternative approaches to establish reasonable administrative cost limitations for Local Management Entities (LMEs), including both county programs and area authority models, and service providers in accordance with system reform and changes in system funding structures."

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MENTAL RETARDATION CENTER DOWNSIZING

SECTION 10.28. Section 21.67 of S.L. 2001-424 reads as rewritten:

"SECTION 21.67.(a) In accordance with the Department of Health and Human Services' plan for downsizing the State's regional mental retardation facilities by four percent (4%) each year, the Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the mental retardation centers in order to ensure that placements for ICF/MR level of care shall be made in non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the State mental retardation centers shall be reduced, and positions shall be eliminated as the census of each facility decreases. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as ~~outreach~~ outreach, except that position transfers may be made for outreach activities to facilitate the transfer of residents to the community.

SECTION 21.67.(a1) Any savings in State appropriations in excess of two million nine hundred thousand dollars (\$2,900,000) in each year of the 2001-2003 fiscal biennium that result from reductions in beds or services shall be applied as follows:

- (1) Nonrecurring savings shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and shall be used to facilitate the transition of clients into appropriate community-based services and support in accordance with Section 21.58 of this act, and
- (2) Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the State mental retardation centers including both the savings in direct State appropriations in the budgets of the State mental retardation centers as well as the savings in the State matching portion of reduced Medicaid payments associated with downsizing.

SECTION 21.67.(b) The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The progress report shall be submitted not later than January 15, 2002, and a final report submitted not later than ~~May 1, 2002~~ January 1, 2003.

SECTION 21.67.(c) Downsizing of mental retardation centers which occurs in the 2001-2002 fiscal year shall be maintained for the 2002-2003 fiscal year. Effective July 1, 2002, downsizing shall be accomplished in accordance with this section and the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. All savings resulting from downsizing occurring on and after July 1, 2002, shall be utilized as set forth in subsection (a1) of this section."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

STATE PSYCHIATRIC HOSPITAL BED DAY ALLOCATION PLAN

SECTION 10.29. Section 21.68A of S.L. 2001-424 reads as rewritten:

"SECTION 21.68A. The Department of Health and Human Services shall develop and implement a plan that provides for the allocation of State psychiatric hospital ~~beds~~ bed days among counties served by the State's regional psychiatric hospitals. The Plan shall incorporate policies that take into consideration State and county fiscal responsibilities and capacity, cost efficiency, and the principles and guidance embodied in the Olmstead vs. L.C. & E.W. decision. The Department shall report on the implementation of this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division, on ~~March 1, 2002~~ November 1, 2002."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

EXTEND CONSUMER ADVOCACY PROGRAM CONTINGENT UPON FUNDS APPROPRIATED BY THE 2003 GENERAL ASSEMBLY

SECTION 10.30. Section 4 of S.L. 2001-437 reads as rewritten:

"SECTION 4. Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective ~~July 1, 2002, only if funds are appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose.~~ only if funds are appropriated by the 2003 General Assembly for that purpose. Section 2 of this act becomes effective July 1 of the fiscal year for which funds are appropriated by the 2003 General Assembly for that purpose. The remainder of this act is effective when it becomes law."

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Alexander, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

DHHS COORDINATION OF RULES

SECTION 10.31.(a) The Secretary of the Department of Health and Human Services and the Chairs of the Commissions listed in this section shall collaborate in the development of a process for identifying and resolving issues pertaining to duplication and conflict of rules adopted by the Secretary and each Commission that affect the area of mental health, developmental disabilities, and substance abuse services. The process shall address the following:

- (1) How to identify on a routine basis proposed rules that duplicate in whole or in part other rules proposed or adopted and ways of avoiding the duplication without interfering with the agency's statutory duty to

adopt the rule and without impairing the effectiveness of the rule in carrying out the statutory mandate.

- (2) How to identify on a routine basis adopted rules that are in conflict, proposed rules that conflict with other proposed or adopted rules, and ways of addressing the conflict without interfering with the agency's statutory duty to adopt the rule and without impairing the effectiveness of the rule in carrying out the statutory mandate.

The following Commissions shall collaborate with the Secretary on the development of this process: the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, the Social Services Commission, the Commission for Health Services, the Medical Care Commission, and other Commissions that adopt rules affecting the area of mental health, developmental disabilities, and substance abuse services that the Secretary has a duty to implement. The Secretary shall also involve a representative of the Division of Medical Assistance in this effort.

SECTION 10.31.(b) The Secretary and the Commissions shall implement the process required by subsection (a) of this section not later than November 1, 2002. Not later than November 15, 2002, the Secretary shall report to the Joint Legislative Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services the following:

- (1) The status of the review of rules conducted by the Department for determining the existence of ambiguity, duplication, or conflict.
- (2) Specific rules identified that are in conflict and the recommended action for resolving the conflict.
- (3) Statutory changes necessary to accomplish the purposes of the rules review process required by subsection (a) of this section.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

PATIENT ADVOCATE POSITIONS ORGANIZATIONAL CHANGE

SECTION 10.31A. In order to better achieve the purposes of patient advocate positions, the Department of Health and Human Services shall develop a plan for restructuring the organizational framework for patient advocate positions such that patient advocates in the State psychiatric hospitals and mental retardation centers are under the supervision of and report directly to Department officials rather than to the Directors of these facilities. In developing the plan, the Department shall not relocate the patient advocates nor change their duties and responsibilities, but shall determine the best organizational structure within the Department for these positions. In developing the plan the Department shall also consider contracting for patient advocate services. The Department shall report on the development of the plan to restructure the patient advocate position organizational framework. The report shall include the following information:

- (1) The various potential organizational structures under the Department's organizational framework considered for the patient advocate positions.
- (2) The organizational framework recommended by the Department.
- (3) The Department officials responsible for supervision of the patient advocates under the new organizational framework.
- (4) Whether the Department considered contracting for patient advocate services and the reasons for its decision about contracting for these services.

The Department shall submit the report not later than December 1, 2002, to the House of Representatives Appropriations Subcommittee on Health and Human

Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SUBPART 4. DIVISION OF SOCIAL SERVICES

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

SPECIAL NEEDS ADOPTION INCENTIVE FUND REPORTING DATE

SECTION 10.32. Section 21.42(d) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.42.(d)** The Department of Health and Human Services shall report on the use of these funds no later than April 1, ~~2002,2003~~, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

CHILD WELFARE SYSTEMS PILOTS REPORTS

SECTION 10.33.(a) Section 21.46(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.46.(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 an alternative response system of child protection in no fewer than two and no more than 10 demonstration areas in this State. The plan should provide for the pilots to implement an alternative response system in which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child ~~neglect, neglect and dependency.~~"

SECTION 10.33.(b) The Department of Health and Human Services shall report on any activities conducted under Section 21.46 of S.L. 2001-424 to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2003.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

FAMILY RESOURCE CENTERS – REPORTING REQUIREMENT

SECTION 10.34. Section 21.48(e) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.48.(e)** The Department shall report on activities under this section. This report is due to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on May 1, ~~2002,2003.~~"

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

ELIMINATE ADDITIONAL FUNDS FOR CHILD SUPPORT SERVICES

SECTION 10.35. Section 21.54A of S.L. 2001-424 reads as rewritten:

"**SECTION 21.54A.** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of one million five hundred thousand dollars (\$1,500,000) for the 2001-2002 fiscal year, ~~and one million five hundred thousand dollars (\$1,500,000) for the 2002-2003 fiscal year,~~ shall be used to contract for additional child support services in urban counties demonstrating significant caseload backlogs. The additional support to urban counties shall address the backlog of cases and emphasize the establishment of paternities and the location of absent parents."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.36. Section 21.44(d) of S.L. 2001-424 reads as rewritten:

"SECTION 21.44.(d) Effective October 1, 2002, the maximum monthly rate for residents in adult care home facilities shall be ~~one thousand one hundred twenty dollars (\$1,120) per month per resident.~~ one thousand ninety-one dollars (\$1,091) per month per resident."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
ELECTING COUNTY TANF FUNDS REVERT

SECTION 10.37. G.S. 108A-27.11(c) reads as rewritten:

"(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 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.~~"

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES

SECTION 10.38. Section 21.54(b) of S.L. 2001-424 reads as rewritten:

"SECTION 21.54.(b) The Department shall submit a progress report on the development of the model to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before January 1, 2002, and a final report on ~~March 1, 2002.~~ March 1, 2003. The report shall address the following:

- (1) The proposed time and location for implementation of the pilot.
- (2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
- (3) Method for evaluating the pilot, including services provided, on a regular basis.
- (4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.
- (5) Changes to State law necessary to implement the pilot.
- (6) Projected cost to the State for pilot and statewide implementation."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
**ADULT CARE HOME RESIDENT ASSESSMENT SERVICES PROGRAM
REPEALED**

SECTION 10.39. Section 21.35 of S.L. 2001-424 is repealed.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee;
Representatives Earle, Nye, Easterling, Oldham, Redwine
SPECIAL CHILDREN ADOPTION FUND

SECTION 10.41. Section 21.40(b) of S.L. 2001-424 reads as rewritten:

"SECTION 21.40.(b) Of the total funds appropriated for the Special Children Adoption Fund, each year ~~one million dollars (\$1,000,000)~~ twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private adoption agencies have not been spent on or before March 31, ~~2002, 2003~~, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies."

Requested by: Senators Martin of Guilford, Hoyle, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

BOYS AND GIRLS CLUBS

SECTION 10.41A. The sum of five hundred fifty thousand dollars (\$550,000) appropriated in this act to the Department of Health and Human Services for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS POLICY

SECTION 10.41B.(a) Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State/County Special Assistance.

SECTION 10.41B.(b) The Department of Health and Human Services shall continue to review whether policy for State/County Special Assistance should be changed to permit an assisted living facility to accept from a family member of a resident who qualifies for State/County Special Assistance payment for the difference in the monthly rate for room, board, and services available. In reviewing current policy, the Department shall consider the following conditions on family contributions to the resident's cost of care:

- (1) Ensuring that the resident meets all income and resource eligibility requirements for State/County Special Assistance.
- (2) Not counting payments made by family members to the facility as income to the resident or as an in-kind contribution when calculating the monthly rate applicable to the resident.
- (3) Ensuring that supplemental payments are made on a voluntary basis as specified in the resident agreement.

Not later than March 1, 2003, the Department shall report on its activities under this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.41B.(c) Subsection (a) of this section becomes effective November 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Rand, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

CHILD SUPPORT PROGRAM NOTIFICATION EXTENDED

SECTION 10.41C. Notwithstanding G.S. 110-141, a board of county commissioners that desires to assume responsibility for the administration of the Child Support Program beginning with the 2003-2004 fiscal year must notify the Department of Health and Human Services of its intent no later than December 1, 2002. The obligation of the board of county commissioners to assume responsibility for the administration of the Program does not commence prior to July 1, 2003. Until July 1, 2003, the Department of Health and Human Services shall continue the administration of the Program for that county.

SUBPART 5. OFFICE OF EDUCATIONAL SERVICES

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

RESIDENTIAL SCHOOLS REPORTING

SECTION 10.44. The Office of Education Services shall report not later than December 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABC's program.

SUBPART 6. DIVISION OF PUBLIC HEALTH

Requested by: Senators Martin of Guilford, Purcell, Warren, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

HEART DISEASE AND STROKE PREVENTION TASK FORCE

SECTION 10.45. Section 21.95 of S.L. 2001-424 reads as rewritten:

"SECTION 21.95. The Heart Disease and Stroke Prevention Task Force, created in subsection (1) of Section 26.9 of Chapter 507 of the 1995 Session Laws, as amended, shall submit to the Governor and the General Assembly a sixth interim report within the first week of the convening of the 2001 General Assembly, 2002 Regular Session, and a seventh interim report within the first week of the convening of the 2003 General Assembly. Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit a final report to the Governor and the General Assembly by June 30, 2003, and a report to each subsequent regular legislative session within one week of its convening. ~~by June 30, 2003, and, upon submission of its final report to the Governor and the General Assembly, the Task Force shall expire."~~

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

NEWBORN HEARING SCREENING PROGRAM REPORT

SECTION 10.46. Section 21.96 of S.L. 2001-424 reads as rewritten:

"SECTION 21.96. The Department of Health and Human Services shall report the following information on the newborn hearing screening program:

- (1) Unduplicated number of infants screened.
- (2) Number of infants who failed the second hearing screening.
- (3) Number of infants receiving the diagnostic evaluation.
- (4) Number and types of services provided.
- (5) Number and types of follow-up services provided to children.

The Department shall submit the report not later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of

Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall report not later than January 1, 2003, on its activities to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

INTENSIVE HOME VISITING

SECTION 10.47. Section 21.97(b) of S.L. 2001-424 reads as rewritten:

"SECTION 21.97.(b) The Division shall require in-home visitors to collect data on program participants as a condition of participation. This requirement shall include six-month periodic assessments and completion of the questionnaires. The Department shall ensure that the collection, maintenance, use, and disclosure of data complies with applicable State and federal law protecting privacy of health and other individual information. By April 1, ~~2002, 2003~~, the Division shall report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the following items:

- (1) Number of clients/families enrolled per county.
- (2) Attrition and reasons why families leave the program.
- (3) Average number of home visits per month.
- (4) Average time involved per home visit.
- (5) Baseline family characteristics.
- (6) Health behaviors.
- (7) Perinatal and birth outcomes.
- (8) Other relevant outcome information.

All program information shall include the identification of the model used in order to compare these models in the future."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.48.(a) Section 21.90(b) of S.L. 2001-424 reads as rewritten:

"SECTION 21.90.(b) For the 2001-2002 fiscal year and for the 2002-2003 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. ~~Eligibility for participation in ADAP may be extended to individuals with incomes up to one hundred fifty percent (150%) of the federal poverty level only after the Office of State Budget and Management certifies in writing that the Department has developed an information management system pursuant to subsection (a) of this section. Until the Office of State Budget and Management makes this certification, eligibility~~ Eligibility for participation in ADAP during the 2001-2003 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level. ~~Following six months of increased eligibility at one hundred fifty percent (150%) of the federal poverty level, eligibility for participation in ADAP shall be extended to individuals with incomes up to one hundred seventy five percent (175%) of the federal poverty level for the remainder of the 2001-2002 fiscal year. Beginning July 1, 2002, eligibility for participation in the ADAP shall be extended to individuals with incomes up to two hundred percent (200%) of the federal poverty level."~~

SECTION 10.48.(b) The Department of Health and Human Services shall develop a plan to manage costs in ADAP and to serve additional participants within additional resources. The plan shall include an assessment of the following, including, where applicable, a review of other states' actions in these areas:

- (1) Limiting the drug formulary.

- (2) Capping expenditures on a per participant/per month basis.
- (3) Providing financial assistance to participants for health care program premiums.

SECTION 10.48.(c) The Department shall report on activities conducted under this section and under Section 21.90 of S.L. 2001-424 to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall submit an interim report not later than December 1, 2002, and a final report not later than May 1, 2003.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

PRESCRIPTION DRUG ASSISTANCE PROGRAM

SECTION 10.49.(a) Section 21.88 of S.L. 2001-424 reads as rewritten:

"SECTION 21.88. 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 2001-2002 fiscal year ~~and the sum of five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year~~ shall be used to pay the cost of outpatient prescription drugs for persons:

- (1) Over the age of 65 years and not eligible for full Medicaid benefits;
- (2) Whose income is not more than one hundred fifty percent (150%) of the federal poverty level; and
- (3) Who have been diagnosed with cardiovascular disease or diabetes.

These funds shall be used to pay the cost of outpatient prescription drugs for the treatment of cardiovascular disease or diabetes. Payment shall be not more than the Medicaid cost including rebates. The Department shall develop criteria to maximize the efficient and effective distribution of these drugs."

SECTION 10.49.(b) It is the intent of the General Assembly that funding for prescription drug assistance provided by the Health and Wellness Trust Fund shall include funds for the transition of benefits formerly provided under the Prescription Drug Assistance Program.

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

EARLY INTERVENTION PROGRAM - REPORTING REQUIREMENT

SECTION 10.52. The Department of Health and Human Services shall report on the activities conducted under Section 21.79 of S.L. 2001-424 to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2002.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

DEVELOPMENTAL EVALUATION CENTERS

SECTION 10.53.(a) The Department of Health and Human Services, Division of Public Health, shall administer the reduction in funds for the 2002-2003 fiscal year of two million seventy-six thousand four hundred twenty-six dollars (\$2,076,426) to all Developmental Evaluation Centers (DECs) based upon the following:

- (1) Prior years' expenditures of the DEC,
- (2) Elimination of vacant positions, and
- (3) Overall needs of the DEC.

The reduction shall not result in the entire closure of an individual DEC and the implementation of the reduction should seek to minimize the loss of direct services to children, looking first at administrative reductions.

SECTION 10.53.(b) The Division of Public Health shall prepare a plan for the future of Developmental Evaluation Centers that will involve a needs-assessment of services and geographical needs. The plan shall also include an assessment of the number of DEC's needed and recommendations for future downsizing or growth based on data to be provided in the report. The plan will augment the Early Intervention Services Plan submitted to the General Assembly. The Division shall report on its plan not later than December 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

STATE LABORATORY COST ANALYSIS

SECTION 10.53A.(a) The Fiscal Research Division of the Legislative Services Office shall contract with an independent consultant to conduct a cost identification and fully allocated cost analysis of services provided by the North Carolina State Laboratory, Division of Public Health of the Department of Health and Human Services. The identification and analysis shall include at least the following services: cancer cytology, environmental sciences, newborn screening testing, and infectious and communicable disease testing. The Fiscal Research Division shall issue a Request for Proposal to obtain the services of the independent consultant, shall manage the contract, and shall consult with the Division of Public Health in the development of the Request for Proposal. In developing the Request for Proposal, the Fiscal Research Division shall ensure that comments of the Division of Public Health on the analysis shall be included in the contractor's final report. The Fiscal Research Division shall also ensure that the contractor's analysis provides sufficient information to enable the General Assembly to review and determine the public benefit of maintaining the State Laboratory.

SECTION 10.53A.(b) The Department of Health and Human Services shall transfer not more than fifty thousand dollars (\$50,000) to the General Assembly, Fiscal Research Division of the Legislative Services Office. These funds shall be used to conduct the identification and analysis required in subsection (a) of this section.

SECTION 10.53A.(c) The contractor conducting the analysis shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services no later than May 1, 2003, on the results of the analysis and recommendations.

SUBPART 7. DIVISION OF CHILD DEVELOPMENT

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.55.(a) Section 21.75(d) of S.L. 2001-424 reads as rewritten:

"SECTION 21.75.(d) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal year-years 2001-2002 and 2002-2003 shall be administered and distributed in the following manner:

- (1) The North Carolina Partnership for Children, Inc., shall develop a policy to allocate the reduction of funds for Early Childhood Education and Development Initiatives for the 2001-2002 and 2002-2003 fiscal year-years.
- (2) The North Carolina Partnership for Children, Inc., administration shall be reduced by ten percent (10%) from the 2000-2001 fiscal year level.
- (3) The Department of Health and Human Services Smart Start administration shall be reduced by ten percent (10%) from the 2000-2001 fiscal year level.
- (4) Capital expenditures and playground equipment expenditures are prohibited for fiscal year ~~2001-2002~~ years 2001-2002 and 2002-2003. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.
- (5) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal year 2002-2003."

SECTION 10.55.(b) Section 21.75(f) of S.L. 2001-424 reads as rewritten:

"SECTION 21.75.(f) For the 2001-2002 and 2002-2003 fiscal year-years, the North Carolina Partnership for Children, Inc., shall not approve local partnership plans that allocate State funds to child care providers for one-time quality improvement initiatives in the following circumstances:

- (1) Child care facilities with licensure of four or five stars, unless the expenditure of funds is to expand capacity for low-income children.
- (2) Child care facilities that do not accept child care subsidy funds.
- (3) Child care facilities that previously received quality improvement grants whose quality initiatives failed to increase licensure."

SECTION 10.55.(c) For the 2002-2003 fiscal year, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

SECTION 10.55.(d) G.S. 143B-168.12 is amended by adding a new subsection to read:

"(e) The North Carolina Partnership shall develop guidelines for local partnerships to follow in selecting capital projects to fund. The guidelines shall include assessing the community needs in relation to the quantity of child care centers, assessing the cost of purchasing or constructing new facilities as opposed to renovating existing facilities, and prioritizing capital needs such as construction, renovations, and playground equipment and other amenities."

SECTION 10.55.(e) G.S. 143B-168.13(a)(1a) reads as rewritten:

- "(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. This needs assessment shall include a statewide assessment of capital needs. 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."

SECTION 10.55.(f) Section 21.72(a) of S.L. 2001-424 reads as rewritten:

"SECTION 21.72.(a) 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.~~ For the purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management."

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

MORE AT FOUR PROGRAM

SECTION 10.56.(a) Section 21.76B(d) of S.L. 2001-424 reads as rewritten:

"SECTION 21.76B.(d) In development of the "More At Four" pilot, the Department of Health and Human Services, in consultation with the Department of Public Instruction and the Task Force, shall:

- (1) Contract with an independent research organization, outside the Department of Health and Human Services and the Department of Public Instruction, with proven expertise in evaluation of prekindergarten programs, for the design of an evaluation component. The evaluation component shall facilitate longitudinal review of the program and child-specific outcomes to include, at a minimum, participants' readiness for kindergarten, percentage of participants scoring at or above grade level on the third grade end-of-grade test, and high school graduation rates.
- (2) Collaborate in the development of a system to collect and maintain child-specific information to provide for the long-term evaluation of the pilot. The system shall be developed in a manner which ~~builds upon~~ utilizes existing State and local systems and ~~which facilitates the interface with~~ the N.C. Student Information Management System."

SECTION 10.56.(b) Section 21.76B(f) of S.L. 2001-424 reads as rewritten:

"SECTION 21.76B.(f) In order to maximize and coordinate funding for prekindergarten programs for ~~four-year-olds~~ at-risk preschoolers with demonstrated educational needs, the Department of Health and Human Services, the Department of Public Instruction, ~~and the Task Force~~ Force, and the North Carolina Partnership for Children, Inc., shall identify and make recommendations on the ~~reallocation~~ most efficient and effective use of funds from existing State and local programs providing prekindergarten related care and services, including child care subsidies. All potential funding sources, including federal as well as State-funded efforts, shall be identified. The report required under subsection (g) of this section shall include recommendations on strategies to ensure coordination between the Partnership, More At Four, and other prekindergarten programs in addressing the academic and cognitive needs of at-risk preschoolers. The report shall include recommendations on structural changes to Smart Start, More At Four, and other related programs, including consolidation, that may be beneficial in encouraging this coordination. The report shall include a plan and a timetable for implementation of the recommendations."

SECTION 10.56.(c) Section 21.76B(g) of S.L. 2001-424 reads as rewritten:

"SECTION 21.76B.(g) The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall report by January 1, 2002, and May 1, 2002, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Appropriations Subcommittee on Health and Human Services on the progress in complying with this section. A final report along with recommendations for changes or expansion of the program shall be presented to the ~~2003 General Assembly~~ Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2003. This final report shall include the following:

- (1) The number of children participating in the program.
- (2) The number of children participating in the program who have never been served in other early education programs such as child care.

public or private preschool, Head Start, Early Head Start, or early intervention programs.

- (3) The expected expenditures for the fiscal year.
- (4) The location of program sites and the corresponding number of children participating in the program at each site.
- (5) Recommendations regarding most efficient and effective use of State, local, and federal funds to maximize the provision of services to at-risk preschoolers and to eliminate duplication of efforts.
- (6) A comprehensive cost analysis of the program including the cost per child served by the program."

SECTION 10.56.(d) Section 21.76B(a) of S.L. 2001-424 reads as rewritten:

"SECTION 21.76B.(a) Of the funds appropriated to the Department of Health and Human Services the sum of six million four hundred fifty-six thousand five hundred dollars (\$6,456,500) in ~~each year of the 2001-2003 fiscal biennium~~ the 2001-2002 fiscal year and the sum of thirty-four million five hundred twenty-one thousand eight hundred dollars (\$34,521,800) in the 2002-2003 fiscal year shall be used to develop and implement "More At Four", a voluntary prekindergarten pilot program for at-risk four-year-olds. The Department of Health and Human Services, in consultation with the Department of Public Instruction, shall develop "More At Four" for four-year-old children in North Carolina to ensure that all children have an opportunity to succeed in kindergarten. Of the funds allocated by this section in the 2002-2003 fiscal year, two hundred fifty thousand dollars (\$250,000) shall be transferred to the Division of Child Development to fund up to four positions and related operating expenditures related to licensing and regulatory activities."

SECTION 10.56.(e) The Department of Health and Human Services shall conduct a county-by-county needs and resources assessment to determine what additional resources are necessary, if any, to meet the needs of at-risk four-year-olds in each county in the State. This assessment shall take into consideration that different counties may require different resources or programs to adequately meet the needs of at-risk four-year-olds. The Department shall report on the results of this assessment to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2003.

Requested by: Senators Martin of Guilford, Purcell, Dannelly, Metcalf, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Gibson, Insko, Easterling, Oldham, Redwine

CHILD CARE SUBSIDY RATES

SECTION 10.57. Section 21.73(f) of S.L. 2001-424 reads as rewritten:

"SECTION 21.73.(f) Provision of payment rates for child care providers in counties that do not have at least ~~75-50~~ children in each age group for center-based and home-based care are as follows:

- (1) Payment rates ~~shall~~ may be set at the statewide or regional market rate for licensed child care centers and homes.
- (2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than ~~75-50~~ children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied."

Requested by: Senators Martin of Guilford, Purcell, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine

REPEAL CHILD CARE FRAUD PROVISION DUE TO FEDERAL REPAYMENT REQUIREMENTS

SECTION 10.58. G.S. 110-108 is repealed.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Senators Martin of Pitt, Weinstein, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

CLOSE ROBBINS DIAGNOSTIC LABORATORY

SECTION 11.1.(a) The Department of Agriculture and Consumer Services shall close the Poultry Disease Diagnostic Laboratory located in the Town of Robbins in Moore County and reassign one veterinarian position and one medical laboratory technician position to the Rollins Animal Disease Diagnostic Laboratory located in Raleigh. In order to preserve current laboratory capability, poultry diagnostic services currently performed at the Poultry Disease Diagnostic Laboratory located in the Town of Robbins shall be performed at the Rollins Animal Disease Diagnostic Laboratory located in Raleigh or at other animal disease diagnostic laboratories of the Department of Agriculture and Consumer Services.

SECTION 11.1.(b) The Department of Agriculture and Consumer Services shall evaluate the statewide need for poultry disease diagnostic services. In particular, the Department shall determine whether the needs of the region of the State in which the Town of Robbins is located are being met. No later than March 15, 2003, the Department of Agriculture and Consumer Services shall complete this evaluation and report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

ADJUST METHOD OF BUDGETING RECEIPTS AND LIMIT SPENDING

SECTION 11.2.(a) The Office of State Budget and Management shall, in accordance with G.S. 143-25, adjust its current method of budgeting receipt revenues within the Department of Agriculture and Consumer Services to more accurately reflect actual revenues.

SECTION 11.2.(b) Notwithstanding G.S. 143-23, the Division of Research Stations of the Department of Agriculture and Consumer Services shall not spend more during the 2002-2003 fiscal year than is appropriated under this act for the Division of Research Stations of the Department of Agriculture and Consumer Services for the 2002-2003 fiscal year.

Requested by: Senators Martin of Pitt, Weinstein, Metcalf, Carter, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

TRANSFER MOUNTAIN STATE FAIR RECEIPTS

SECTION 11.3. The Department of Agriculture and Consumer Services shall transfer the sum of seventy thousand dollars (\$70,000) from the Mountain State Fair receipts for the 2002-2003 fiscal year to the Western North Carolina Development Association, Inc., to be used to promote agricultural development in the western part of the State.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Nye, Fox, Owens, Allen, Easterling, Oldham, Redwine

NC FARMERS' MARKETS/ANALYZE CERTAIN OPERATIONAL GUIDELINES AND ENFORCEMENT OF GUIDELINES

SECTION 11.4.(a) It is the intent of the General Assembly to support small farms that are family farms and that farmers' markets operated by the Department of Agriculture and Consumer Services are operated in a manner that provides retail outlets for these farmers to sell the farm products they produce on these farms.

SECTION 11.4.(b) The Department of Agriculture and Consumer Services shall analyze the operational guidelines of the farmers' markets operated by the Department of Agriculture and Consumer Services with respect to the current requirements for the percentage of farm products that a farmer must produce on the farmer's own farm to be eligible to sell farm products at retail in the main areas of these farmers' markets. The Department of Agriculture and Consumer Services also shall analyze the current enforcement of the operational guidelines of the farmers' markets operated by the Department of Agriculture and Consumer Services. No later than January 15, 2003, the Department of Agriculture and Consumer Services shall report any recommendations concerning the matters analyzed under this section to the Senate and House of Representatives 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, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

FARMLAND PRESERVATION

SECTION 11.6. Notwithstanding the provisions of G.S. 106-744(b), funds appropriated in this act to the Department of Agriculture and Consumer Services for the Farmland Preservation Trust Fund for the 2002-2003 fiscal year shall be used for the purchase of agricultural conservation easements that are perpetual in duration and that shall not be reconveyed under any circumstances.

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Mitchell, Easterling, Oldham, Redwine

GRASSROOTS SCIENCE PROGRAM

SECTION 12.1. Section 19.2 of S.L. 2001-424 reads as rewritten:

"SECTION 19.2. Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million one hundred twenty thousand dollars (\$3,120,000) for fiscal year 2001-2002 and the sum of ~~three million one hundred twenty thousand dollars (\$3,120,000)~~ two million eight hundred one thousand seven hundred sixty dollars (\$2,801,760) for fiscal year 2002-2003 are allocated as grants-in-aid for each fiscal year as follows:

	2001-2002	2002-2003	2002-2003
Aurora Fossil Museum	\$58,733	\$58,733	<u>\$57,535</u>
Cape Fear Museum	\$209,018	\$209,018	<u>\$187,205</u>
Catawba Science Center	\$167,833	\$167,833	<u>\$151,669</u>
Colburn Gem and Mineral Museum, Inc.	\$71,336	\$71,336	<u>\$68,409</u>
Discovery Place	\$699,985	\$699,985	<u>\$610,826</u>
Granville County Museum Commission, Inc. - Harris Gallery	\$61,553	\$61,553	<u>\$59,968</u>
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$157,305	\$157,305	<u>\$142,585</u>
Imagination Station	\$94,815	\$94,815	<u>\$88,668</u>
Iredell County Children's Museum	\$58,342	\$58,342	<u>\$57,198</u>
Museum of Coastal Carolina	\$64,141	\$64,141	<u>\$62,201</u>
Natural Science Center of Greensboro	\$250,850	\$250,850	<u>\$223,299</u>
North Carolina Museum of Life			

and Science	\$445,843	\$445,843	\$391,545
Rocky Mount Children's Museum	\$88,855	\$88,855	\$83,525
Schiele Museum of Natural History	\$348,433	\$348,433	\$307,496
Sci Works Science Center and Environmental Park of Forsyth County	\$178,947	\$178,947	\$161,259
Western North Carolina Nature Center	\$164,011	\$164,011	\$148,372
Total	\$3,120,000	\$3,120,000	\$2,801,760"

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee;
Representatives Fox, Owens, Easterling, Oldham, Redwine

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 12.2. Section 19.1 of S.L. 2001-424 reads as rewritten:

"**SECTION 19.1.** Of the funds appropriated in this act to the Wildlife Resources Commission, the sum of five hundred thousand dollars (\$500,000) for the 2001-2002 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ four hundred forty-nine thousand dollars (\$449,000) for the 2002-2003 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share."

Requested by: Senators Martin of Pitt, Weinstein, Odom, Plyler, Lee;
Representatives Fox, Owens, Easterling, Oldham, Redwine

DENR POSITION FOR SCRAP TIRE PROGRAM

SECTION 12.5.(a) Section 19.14 of S.L. 2001-424 reads as rewritten:

"**SECTION 19.14.** Notwithstanding the provisions of G.S. 130A-309.63, the Department of Environment and Natural Resources may use funds in the Scrap Tire Disposal Account that, pursuant to G.S. 130A-309.63(d), are to be used for the cleanup of scrap tire collection sites, to maintain and support a position for the 2001-2002 fiscal year ~~and for the 2002-2003 fiscal year~~ to provide regulatory assistance to local governments to develop programs to prevent scrap tires from outside the State from being presented for free disposal and to complete the cleanup of nuisance tire collection sites."

SECTION 12.5.(b) G.S. 130A-309.63 reads as rewritten:

"§ 130A-309.63. Scrap Tire Disposal Account.

(a) Creation. – The Scrap Tire Disposal Account is established as a nonreverting account within the Department. The Account consists of revenue credited to the Account from the proceeds of the scrap tire disposal tax imposed by Article 5B of Chapter 105 of the General Statutes. The Department may use revenue in the Account only as authorized by this section.

(b) Use. – The Department may use revenue in the Account only as authorized by this section.

(1) The Department may use up to fifty percent (50%) of the revenue in the Account to make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

- (2) The Department may use up to forty percent (40%) of the revenue in the Account to make grants to encourage the use of processed scrap tire materials. These grants may be made to encourage the use of tire-derived fuel, crumb rubber, carbon black, or other components of tires for use in products such as fuel, tires, mats, auto parts, gaskets, flooring material, or other applications of processed tire materials. These grants shall be made in consultation with the Department of Commerce, the Division of ~~Environmental Assistance and Pollution Prevention~~ and Environmental Assistance of the Department, and, where appropriate, the Department of Transportation. Grants to encourage the use of processed scrap tire materials shall not be used to process tires.
- (3) The Department may use revenue in the Account to support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.
- (4) The Department may use the remaining revenue in the Account only to clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds in the Account to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(c) Eligibility. – A unit of local government is not eligible for a grant for scrap tire disposal unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

~~(d) Cleanup of Nuisance Tire Sites. – The Department may use the remaining revenue in the Account only to clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds in the Account to clean up a nuisance tire collection site only if no other funds are available for that purpose.~~

(e) Reporting. – The Department shall include in the report to be delivered to the Environmental Review Commission on or before 15 January of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act for the fiscal year ending the preceding 30 June. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include the beginning and ending balances in the Account for the reporting period, the amount credited to the Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Ballance, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL

SECTION 12.6.(a) The Department of Environment and Natural Resources may use up to two million five hundred thousand dollars (\$2,500,000) from the Inactive Hazardous Sites Cleanup Fund established in G.S. 130A-310.11 for the 2002-2003 fiscal year for the detoxification and remediation of the landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials.

SECTION 12.6.(b) Notwithstanding the provisions of G.S. 143-215.3A, the Department of Environment and Natural Resources also may use up to five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year from the fees collected for

water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if both of the following conditions are satisfied:

- (1) The detoxification and remediation of the landfill located in Warren County cannot be completed without funds in addition to those that are authorized for this purpose under subsection (a) of this section.
- (2) All other funds, including all contingency funds, available to the Department for the detoxification and remediation of the landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials have been spent or encumbered.

SECTION 12.6.(c) It is the intent of the General Assembly that the funds authorized under this section will be sufficient to complete the detoxification and remediation of this landfill, based on representations made to the General Assembly.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Mitchell, Allen, Easterling, Oldham, Redwine

DIVISION OF ENVIRONMENTAL HEALTH POSITION RECLASSIFIED

SECTION 12.7. The vacant position of Administrative Assistant II in the Division of Environmental Health of the Department of Environment and Natural Resources is reclassified as the position of Environmental Engineer II and is assigned to the On-Site Wastewater Section of the Division of Environmental Health of the Department of Environment and Natural Resources.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Rand, Plyler, Odom, Lee; Representatives Nye, Fox, Owens, Allen, Easterling, Oldham, Redwine

POSITIONS/EMPLOYEES AT LAKE JAMES AND SINGLETARY LAKE STATE PARKS

SECTION 12.8.(a) None of the following positions shall be eliminated for the 2002-2003 fiscal year at Lake James State Park located in McDowell and Burke Counties:

- (1) Park Ranger I.
- (2) Park Ranger II.
- (3) Maintenance Mechanic III.
- (4) Office Assistant III.

SECTION 12.8.(b) The employees currently filling the positions under subsection (a) of this section shall not be reduced in force for the 2002-2003 fiscal year.

SECTION 12.8.(c) None of the following positions shall be eliminated for the 2002-2003 fiscal year at Singletary Lake State Park located in Bladen County:

- (1) Park Ranger II.
- (2) Office Assistant III.
- (3) Maintenance Mechanic III.
- (4) General Utility Worker.

SECTION 12.8.(d) The employees currently filling the positions under subsection (c) of this section shall not be reduced in force for the 2002-2003 fiscal year.

SECTION 12.8.(e) It is the intent of the General Assembly that Lake James State Park and Singletary Lake State Park remain open to the public during the 2002-2003 fiscal year.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

APPROPRIATION FROM CLEAN WATER MANAGEMENT TRUST FUND

SECTION 12.9. Section 2.2(h) of S.L. 2001-424 reads as rewritten:

"SECTION 2.2.(h) Notwithstanding G.S. 143-15.3B(a) for the 2001-2003 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2001-2002 fiscal year is only forty million dollars (\$40,000,000) as provided by this act

and is only ~~seventy million dollars (\$70,000,000)~~ sixty-six million five hundred thousand dollars (\$66,500,000) for the 2002-2003 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b)."

PART XIII. DEPARTMENT OF COMMERCE

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee;
Representatives Fox, Owens, Easterling, Oldham, Redwine

OREGON INLET FUNDS

SECTION 13.1. Funds appropriated to the Department of Commerce for the 2001-2002 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2002, shall not revert to the General Fund on June 30, 2002, but shall remain available to the Department for legal costs associated with the Project. This section becomes effective June 30, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee;
Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

COUNCIL OF GOVERNMENT FUNDS

SECTION 13.2.(a) Section 20.12(a) of S.L. 2001-424 reads as rewritten:

"SECTION 20.12.(a) Of the funds appropriated in this act to the Department of Commerce, nine hundred thirty-five thousand dollars (\$935,000) for the 2001-2002 fiscal year and ~~nine hundred thirty five thousand dollars (\$935,000)~~ eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2002-2003 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to ~~fifty five thousand dollars (\$55,000)~~ forty-eight thousand nine hundred fifty dollars (\$48,950) for ~~each the 2002-2003 fiscal year, with the actual amount calculated as provided in subsection (b) of this section-year.~~"

SECTION 13.2.(b) Section 20.12(b) of S.L. 2001-424 is repealed.

SECTION 13.2.(c) Section 20.12 of S.L. 2001-424 is amended by adding a new subsection to read:

"SECTION 20.12.(c1) The funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2002, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2003, as specified in subdivision (f)(2) of this section."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee;
Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

WORKER TRAINING TRUST FUND APPROPRIATIONS

SECTION 13.3.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the 2002-2003 fiscal year for the operation of local offices.

SECTION 13.3.(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 2002-2003 fiscal year for the following purposes:

- (1) Nine hundred eleven thousand one hundred twenty-one dollars (\$911,121) for the 2002-2003 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;
- (2) Eight hundred ninety-seven thousand five hundred eighty-seven dollars (\$897,587) for the 2002-2003 fiscal year to the Community Colleges System Office for customized training of the unemployed and

- the working poor for specific jobs needed by employers through the Training Initiatives Program;
- (3) One million four hundred fifty thousand dollars (\$1,450,000) for the 2002-2003 fiscal year to the Community Colleges System Office to continue the Focused Industrial Training Program;
 - (4) Two hundred one thousand nine hundred fifty-seven dollars (\$201,957) for the 2002-2003 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) Three hundred fifty-nine thousand thirty-five dollars (\$359,035) for the 2002-2003 fiscal year to the Community Colleges System Office for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;
 - (6) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the 2002-2003 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;
 - (7) Eight hundred ninety-seven thousand five hundred eighty-seven dollars (\$897,587) for the 2002-2003 fiscal year to the Department of Labor to continue the Apprenticeship Program; and
 - (8) Two hundred fifty thousand dollars (\$250,000) for the 2002-2003 fiscal year to the Community Colleges System Office for the operation of the Hosiery Technology Center.

SECTION 13.3.(c) North Carolina REAL Enterprises and the other agencies listed in subsections (a) and (b) of this section shall do the following for the programs for which funds are appropriated in this section:

By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) State fiscal year 2002-2003 program activities, objectives, and accomplishments;
- (2) State fiscal year 2002-2003 itemized expenditures and fund sources;
- (3) State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2002; and
- (4) State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002.

SECTION 13.3.(d) North Carolina REAL Enterprises shall, in addition to satisfying the reporting requirements in subsection (c) of this section, 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, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

NER INTERIM STUDY/SMALL BUSINESS DEVELOPMENT FUNCTIONS

SECTION 13.4.(a) During the interim between the end of the 2002 Regular Session of the 2001 General Assembly and the beginning of the 2003 General Assembly, the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources may study the feasibility and desirability of designating the Small Business and Technology Development Center (SBTDC), the Department of Commerce, the Community Colleges System Office, or any other

government or nonprofit entity as the State's presumptive provider of small business development assistance, including: (i) promoting the development of small business incubators; and (ii) investing in early-stage technology-based businesses.

SECTION 13.4.(b) The subcommittees shall report their recommendations, including any proposed changes to the General Statutes, to the 2003 General Assembly no later than January 15, 2003. The subcommittees may seek and obtain assistance from any agencies and resources outside the General Assembly that the subcommittees determine are needed to adequately perform the study.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

ONE NORTH CAROLINA FUND

SECTION 13.4B.(a) Funds appropriated to the Department of Commerce for the 2001-2002 fiscal year for the One North Carolina Fund that are unexpended and unencumbered as of June 30, 2002, shall not revert to the General Fund on June 30, 2002, but shall remain available to the Department for providing financial assistance to those businesses and industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

SECTION 13.4B.(b) This section becomes effective June 30, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.6. Section 20.10 of S.L. 2001-424 reads as rewritten:

"SECTION 20.10.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following ~~commissions~~ 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.

SECTION 20.10.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each ~~regional economic development commission~~ Regional Economic Development Commission as follows:

- (1) First, the Department shall establish each ~~commission's~~ Commission's allocation by determining the sum of allocations to each county that is a member of that ~~commission~~ 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~~; G.S. 105-129.3.
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development ~~Zone~~ Commission the sum of two hundred four thousand four hundred thirty-three dollars (\$204,433) in ~~each fiscal year, the 2001-2002 fiscal year and the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in the 2002-2003 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~~ Laws.

- (3) Next, the Department shall redistribute the sum of two hundred four thousand four hundred thirty-three dollars (\$204,433) in ~~each fiscal year the 2001-2002 fiscal year~~ and the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in the ~~2002-2003 fiscal year~~ to the seven ~~regional economic development commissions~~ Regional Economic Development Commissions named in subsection (a) of this section. Each ~~commission's~~ 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~~ Commission's allocation determined under subdivision (1) of this subsection.
- (4) For the 2002-2003 fiscal year, the reduction in appropriation of funds allocated pursuant to subdivisions (1), (2), and (3) of this subsection was managed by first using the formula applied against the amount appropriated for the 2001-2002 fiscal year and then reducing by the sum of eighty-five thousand dollars (\$85,000) the allocation for each of the Regional Economic Development Commissions listed in subsection (a) of this section.
- (5) Funds appropriated in this act to the Department of Commerce for the Regional Economic Development Commissions shall be budgeted in Budget Code 14601 (Commerce-State Aid)."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

REGIONAL COMMISSION REPORTS

SECTION 13.7. Section 20.11(a) of S.L. 2001-424 reads as rewritten:

"SECTION 20.11.(a) Each ~~regional economic development commission~~ Regional Economic Development Commission receiving a grant-in-aid from the Department of Commerce shall:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 2001;
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001.
- (2) ~~By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:~~
 - a. ~~State fiscal year 2001-2002 program activities, objectives, and accomplishments;~~
 - b. ~~State fiscal year 2001-2002 itemized expenditures and fund sources;~~
 - e. ~~State fiscal year 2002-2003 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through~~

- ~~(b)(6) of this section including actual results through December 31, 2002;~~
- d. ~~State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002.~~
- (2) Report by January 15, 2003, on the first and second quarters of the 2002-2003 fiscal year, and by July 15, 2003, on the third and fourth quarters of the 2002-2003 fiscal year, regarding the following:
- a. Program activities, objectives, and accomplishments for its region, to include:
1. Specific businesses and/or industries that have been recruited.
 2. Businesses and/or industries that have located as a result of recruitment efforts and number of new jobs created as a result of that location decision.
 3. Existing businesses and/or industries that have expanded as a result of assistance and number of new jobs created as a result of that expansion.
 4. Existing businesses and/or industries that have remained as a result of retention efforts and number of jobs saved as a result of that retention.
 5. For sub-sub-subdivisions 1 through 4 of this sub-subdivision, each Commission shall describe its role in the activities and identify the relative contributions of the Commission and the Department of Commerce to the activities.
 6. Number and description of marketing outreach events, including trade shows, recruitment missions, and related activities.
 7. Initiatives undertaken to establish certified sites and shell buildings.
 8. Number of referrals or leads handled that were generated by the Department of Commerce and number that were generated by the Commission.
- b. Total itemized actual revenues and expenditures, by fund source.
- The report required by this subsection shall be made to the Department of Commerce, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.
- (3) Report by January 15, 2003, to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce on the following:
- a. State fiscal year 2001-2002 program activities, objectives, and accomplishments.
- b. State fiscal year 2001-2002 itemized expenditures, including salary and benefits for all employees regardless of funding sources, and fund sources.
- (4) Report by January 15, 2003, to the Department of Commerce on the number and listing of available sites and buildings within the region.
- ~~(3)~~(5) Provide to the Fiscal Research Division and the Department of Commerce a copy of its annual audited financial statement within 30 days of issuance of the statement."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee;
Representatives Fox, Owens, Allen, Easterling, Oldham, Redwine

STUDY EFFECTIVENESS OF ECONOMIC DEVELOPMENT AGENCIES

SECTION 13.9. The Kenan-Flagler Business School ("Business School") of the University of North Carolina at Chapel Hill shall study the effectiveness of the economic development activities of the North Carolina Department of Commerce ("Commerce") and the Regional Economic Development Commissions ("Commissions"). In conducting its study the Business School shall work with Commerce and the Commissions to do the following:

- (1) Identify how Commerce and the Commissions can improve communication, implement a more coordinated and efficient recruitment and retention effort throughout the State, and avoid duplication of effort,
- (2) Establish specific performance measures and outcomes relevant to the mission, goals, and objectives of Commerce and the Commissions,
- (3) Develop a "scorecard" that can be used to measure the extent to which Commerce and the Commissions have achieved their goals, objectives, and outcomes, and
- (4) Recommend a performance-based funding mechanism that will inform the General Assembly's decisions regarding appropriations to Commerce and the Commissions.

The Business School also may include in its study and recommendations any other information it deems relevant to the study and its intent.

The Business School shall report its findings and recommendations to the Senate Appropriations Subcommittee on Natural and Economic Resources, the Senate Full Appropriations Chairs, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by March 15, 2003.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

NONPROFIT REPORTING REQUIREMENTS

SECTION 13.10. Section 20.14 of S.L. 2001-424 reads as rewritten:

"SECTION 20.14.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, ~~North Carolina Coalition of Farm and Rural Families, Inc.,~~ North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2002, 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 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001;
- (2) By January 15, 2003, 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 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;

- c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 20.14.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2001. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements ~~for~~ by January 15, 2002, or January 15, 2003."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.11.(a) Section 20.15(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 20.15.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million seven hundred eighty-eight thousand seven hundred forty-nine dollars (\$1,788,749) for the 2001-2002 fiscal year and the sum of ~~one million seven hundred eighty eight thousand seven hundred forty nine dollars (\$1,788,749)~~ one million seven hundred forty-four thousand seven hundred forty-nine dollars (\$1,744,749) for the 2002-2003 fiscal year shall be allocated as follows:

	2001-2002 FY	2002-2003 FY
Research and Demonstration Grants	\$444,000	\$444,000 <u>\$400,000</u>
Technical Assistance and Center Administration of Research and Demonstration Grants	444,471	444,471
Center Administration, Oversight, and Other Programs	437,278	437,278
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000."

SECTION 13.11.(b) Section 20.15(e) of S.L. 2001-424 reads as rewritten:

"**SECTION 20.15.(e)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million nine hundred two thousand dollars (\$2,902,000) for the 2001-2002 fiscal year and the sum of ~~two million nine hundred two thousand dollars (\$2,902,000)~~ two million five hundred forty-two thousand one hundred forty-nine dollars (\$2,542,149) for the 2002-2003 fiscal year shall be allocated as follows:

- (1) ~~\$1,124,000 in each~~ \$1,124,000 for the 2001-2002 fiscal year and \$1,067,800 for the 2002-2003 fiscal year 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. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

- a. \$837,720 in each for the 2001-2002 fiscal year and \$810,000 for the 2002-2003 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. \$236,280 in each for the 2001-2002 fiscal year and \$207,800 for the 2002-2003 fiscal year for direct grants to local community development corporations that have not previously received State funds; and
 - c. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$234,000 in each for the 2001-2002 fiscal year and \$210,600 for the 2002-2003 fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$1,344,000 in each for the 2001-2002 fiscal year and \$1,063,749 for the 2002-2003 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 allocate these funds as follows:
- a. \$1,094,000 in each for the 2001-2002 fiscal year and \$838,749 for the 2002-2003 fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
 1. Necessary economic development projects and activities in economically distressed areas;
 2. 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; or
 3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
 - b. \$250,000 in each for the 2001-2002 fiscal year and \$225,000 for the 2002-2003 fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
- (4) \$200,000 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:
- a. \$75,000 in each fiscal year for operating expenses associated with the Consortium; and
 - b. \$125,000 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need."

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.12. Section 20.16(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 20.16.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of four hundred thousand dollars (\$400,000) for the 2001-2002 fiscal year and the sum of ~~four hundred thousand dollars (\$400,000)~~three hundred eighty thousand dollars (\$380,000) for the 2002-2003 fiscal year shall be allocated as follows:

- (1) ~~\$100,000 in each~~\$100,000 for the 2001-2002 fiscal year and \$95,000 for the 2002-2003 fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
- (2) ~~\$100,000 in each~~\$100,000 for the 2001-2002 fiscal year and \$95,000 for the 2002-2003 fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) ~~\$100,000 in each~~\$100,000 for the 2001-2002 fiscal year and \$95,000 for the 2002-2003 fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and
- (4) ~~\$100,000 in each~~\$100,000 for the 2001-2002 fiscal year and \$95,000 for the 2002-2003 fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc."

PART XIV. JUDICIAL DEPARTMENT

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

RESTRICT DISTRICT COURT MANDATORY ARBITRATION

SECTION 14.3.(a) G.S. 7A-37.1(c) reads as rewritten:

"(c) This procedure may be employed in civil actions where claims do not exceed fifteen thousand dollars ~~(\$15,000)~~(\$15,000), except that it shall not be employed in actions in which the sole claim is an action on an account, including appeals from magistrates on such actions."

SECTION 14.3.(b) This section becomes effective October 1, 2002, and applies to actions and cases filed on or after that date.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

FEDERAL GRANT FUNDS

SECTION 14.4. The Judicial Department shall 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 Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds. The Judicial Department shall also use proceeds from the Court Information Technology Fund to fulfill prior obligations to criminal justice information projects receiving federal funds.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

MAGISTRATE POSITIONS

SECTION 14.6.(a) Notwithstanding the provisions of G.S. 7A-133(c) establishing minimum numbers of magistrate provisions in each county, the Administrative Office of the Courts shall identify and eliminate five magistrate positions across the State in a manner that minimizes the impact on access to court resources. Positions may be eliminated only in counties that currently have at least five magistrate positions, and no more than one position per judicial district may be eliminated.

In identifying the five positions, the Administrative Office of the Courts shall:

- (1) Identify counties with a disproportionate number of magistrate positions, based upon caseload;
- (2) Consider more cost-effective methods of providing access to magistrates in rural areas;
- (3) Determine the optimal mix of part-time and full-time magistrate positions; and
- (4) Consider ongoing discussions before the Courts Commission and the Judicial Counsel on magistrate staffing and jurisdiction.

SECTION 14.6.(b) The Administrative Office of the Courts shall report by December 1, 2002, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the positions to be eliminated and the methodology used to identify those positions.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

TRANSFER SENTENCING SERVICES PROGRAM TO OFFICE OF INDIGENT DEFENSE SERVICES

SECTION 14.7.(a) The statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, of the Administrative Office of the Courts to conduct the Sentencing Services Program, as provided by Article 61 of Chapter 7A of the General Statutes, are transferred to the Office of Indigent Defense Services. However, pursuant to the provisions of G.S. 7A-498.2(c), the Administrative Office of the Courts shall continue to have the responsibility of providing general administrative support to the Sentencing Services Program.

SECTION 14.7.(b) G.S. 7A-498.2(a) reads as rewritten:

"(a) The Office of Indigent Defense Services, which is administered by the Director of Indigent Defense Services and includes the Commission on Indigent Defense ~~Services, Services and the Sentencing Services Program established in Article 61 of this Chapter,~~ is created within the Judicial Department. As used in this Article, "Office" means the Office of Indigent Defense Services, "Director" means the Director of Indigent Defense Services, and "Commission" means the Commission on Indigent Defense Services."

SECTION 14.7.(c) G.S. 7A-498.6(b) reads as rewritten:

"(b) The Director shall:

- (1) Prepare and submit to the Commission a proposed budget for the Office of Indigent Defense Services, an annual report containing pertinent data on the operations, costs, and needs of the Office, and such other information as the Commission may require;
- (2) Assist the Commission in developing rules and standards for the delivery of services under this Article;
- (3) Administer and coordinate the operations of the Office and supervise compliance with standards adopted by the Commission;
- (4) Subject to policies and procedures established by the Commission, hire such professional, technical, and support personnel as deemed

reasonably necessary for the efficient operation of the Office of Indigent Defense Services;

- (5) Keep and maintain proper financial records for use in calculating the costs of the operations of the Office of Indigent Defense Services;
- (6) Apply for and accept on behalf of the Office of Indigent Defense Services any funds that may become available from government grants, private gifts, donations, or bequests from any source;
- (7) Coordinate the services of the Office of Indigent Defense Services with any federal, county, or private programs established to provide assistance to indigent persons in cases subject to this Article and consult with professional bodies concerning improving the administration of indigent services;
- (8) Conduct training programs for attorneys and others involved in the legal representation of persons subject to this Article; ~~and~~
- (8a) Administer the Sentencing Services Program established in Article 61 of this Chapter; and
- (9) Perform other duties as the Commission may assign."

SECTION 14.7.(d) G.S. 7A-771(2a) reads as rewritten:

"(2a) "Director" means the Director of ~~the Administrative Office of the Courts.~~ Indigent Defense Services."

SECTION 14.7.(e) G.S. 7A-772(b) reads as rewritten:

"(b) The Director may establish local sentencing services programs and appoint those staff as the Director deems necessary. These personnel may serve as full-time or part-time State employees or may be hired on a contractual basis when determined appropriate by the director. Contracts entered under the authority of this subsection shall be exempt from the competitive bidding procedures under Chapter 143 of the General Statutes. ~~The Administrative Office of the Courts~~ Office of Indigent Defense Services shall adopt rules necessary and appropriate for the administration of the program. Funds appropriated by the General Assembly for the establishment and maintenance of sentencing services programs under this Article shall be administered by the ~~Administrative Office of the Courts.~~ Office of Indigent Defense Services."

SECTION 14.7.(f) Each Sentencing Services Program shall review its procedures and implement methods of (i) minimizing the frequency with which plans are prepared but not presented to the court, and (ii) ensuring the efficient management of probation revocation cases when they are referred by a judge.

SECTION 14.7.(g) As of July 1, 2002, the number of State positions assigned as administrative staff is reduced from 11 to four. Notwithstanding the provisions of G.S. 7A-772(b), the number of State positions shall not exceed 26. The Office of Indigent Defense Services may reallocate State employee positions in order to provide sentencing services in any of the districts formerly served by non-State agencies. The Office of Indigent Defense Services shall renegotiate contractual arrangements with some of the highest performing nonprofits that have administered sentencing services programs to date. Within existing funding, the Office of Indigent Defense Services may also contract with individuals or organizations to provide additional sentencing services.

SECTION 14.7.(h) The Office of Indigent Defense Services shall report by January 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the reorganization of the Sentencing Services Program pursuant to this section. The report shall include the specific assignments for the State positions, the districts in which sentencing services will be available, the means by which those services will be provided, and an estimated number of plans and cost per plan for the 2002-2003 fiscal year.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

DRUG TREATMENT COURT PROGRAM

SECTION 14.8.(a) The Drug Treatment Court Program shall maintain the existing State-funded programs in Districts 5, 9, 9A, 10, 14, 21, and 26 during the 2002-2003 fiscal year.

SECTION 14.8.(b) It is the intent of the General Assembly that State Drug Treatment Court funds not be used to fund case manager positions when those services can be reasonably provided by the Treatment Alternatives to Street Crime (TASC) program in the Department of Health and Human Services or by other existing resources. The Drug Treatment Court Program shall identify areas of potential cost savings in the local programs that would result from reducing the number of case manager positions. The Program shall also identify areas in which federal funding might absorb administrative costs.

The Drug Treatment Court Program shall report by February 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the savings identified.

SECTION 14.8.(c) Prior to the establishment of any new local drug treatment court programs, the local drug treatment court management committee shall consult with the TASC program as to the availability of case management services in that community.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

ADDITIONAL PUBLIC DEFENDER'S OFFICE IN FORSYTH COUNTY/EXPAND MECKLENBURG PUBLIC DEFENDER'S OFFICE

SECTION 14.11.(a) G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
3A	Pitt
3B	Carteret
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
<u>21</u>	<u>Forsyth</u>
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.11.(b) The Office of Indigent Defense Services may use up to the sum of one million two hundred twenty-five thousand dollars (\$1,225,000) in funds appropriated to create new positions for the Forsyth County Public Defender's office.

These positions shall include the public defender, up to 13 assistant public defenders, and up to seven support positions.

SECTION 14.11.(c) The Office of Indigent Defense Services may use up to the sum of seven hundred forty-five thousand dollars (\$745,000) in funds appropriated for expansion of the Mecklenburg County Public Defender's office through the creation of up to 10 attorney positions and up to five support positions. Funds may be used for salaries, benefits, equipment, and related expenses.

SECTION 14.11.(d) This section becomes effective October 1, 2002.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

APPELLATE COURTS PRINTING AND COMPUTER OPERATIONS

SECTION 14.12. Article 29 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-343.3. Appellate Courts Printing and Computer Operations Fund.

The Appellate Courts Printing and Computer Operations Fund is established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, interest and other investment income earned by the Fund shall be credited to it. All moneys collected through charges to litigants for the reproduction of appellate records and briefs under G.S. 7A-11 and G.S. 7A-20(b) shall be remitted to the State Treasurer and held in this Fund. Moneys in the Fund shall be used to support the print shop operations of the Supreme Court and the Court of Appeals, including personnel, maintenance, and capital costs. The Judicial Department may create and maintain receipt-supported positions for these purposes but shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety prior to creating such new positions.

The Judicial Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by January 1 of each year on all receipts and expenditures of the Fund."

PART XV. DEPARTMENT OF JUSTICE

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Baddour, Easterling, Oldham, Redwine

NO-CALL REGISTRY AUTHORIZATION

SECTION 15.2.(a) The Department of Justice may use funds available to the Department up to seven hundred thousand dollars (\$700,000) during the 2002-2003 fiscal year to establish and implement a no-call registry to stop unwanted telemarketing calls and to increase protections for consumers in transactions initiated by telemarketers. These funds shall also be used to develop programs to protect citizens from improper electronic invasions of privacy.

SECTION 15.2.(b) This section becomes effective only when legislation authorizing the Department of Justice to establish and implement a no-call registry becomes law.

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

INSURANCE REGULATORY FUND REIMBURSEMENT

SECTION 15.5. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in

the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

- (1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.
- (2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.
- (3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.
- (4) Money appropriated for the office of Managed Care Patient Assistance Program established under G.S. 143-730 to pay the actual costs of administering the program.
- (5) Money appropriated to the Department of Insurance for the implementation and administration of independent external review procedures required by Part 4 of Article 50 of this Chapter.
- (6) Money appropriated to the Department of Justice to pay its expenses incurred in representing the Department of Insurance in its regulation of the insurance industry and other related programs and industries in this State that fall under the jurisdiction of the Department of Insurance."

PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER AND MULTIPURPOSE BEDS

SECTION 16.1.(a) The Department of Juvenile Justice and Delinquency Prevention may use funds available during the 2002-2003 fiscal year to (i) establish or reestablish Youth Development Center beds, (ii) reestablish one multipurpose group home, and (iii) convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated with existing contract funds. If the Department of Juvenile Justice and Delinquency Prevention determines it needs additional youth development center beds during the 2002-2003 fiscal year, it shall consider reestablishing beds at Samarkand Manor Youth Development Center.

SECTION 16.1.(b) The Department shall consult with the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee prior to:

- (1) Converting any Eckerd Wilderness Camp beds to secure confinement beds during the 2002-2003 fiscal year;
- (2) Establishing bed capacity at the standard or expanded capacity level greater than 730 beds, including beds converted at Eckerd Wilderness Camps, during the 2002-2003 fiscal year; or
- (3) Reestablishing one multipurpose group home during the 2002-2003 fiscal year.

The report shall include the sources of funding for any additional beds.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

FUNDING OF TEEN COURT PROGRAMS

SECTION 16.2.(a) Of the funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2002-2003 fiscal year, the sum of four hundred eighty-eight thousand six hundred sixty dollars (\$488,660) shall be used to continue the operations of teen court programs which received direct State appropriations from the Department in the 2001-2002 fiscal year. For the 2002-2003 fiscal year, the Department shall allocate funds to the Juvenile Crime Prevention Councils in the counties in which those teen court programs are located. For each teen court program, the allocation shall be in an amount equal to the appropriation received by that program in the 2001-2002 fiscal year. The allocations authorized by this subsection are in addition to the formula allocations for the applicable counties.

SECTION 16.2.(b) G.S. 143B-520(b) reads as rewritten:

"(b) Every teen court program that receives ~~State funds, including~~ funds from Juvenile Crime Prevention Councils, ~~Councils~~ shall comply with rules and reporting requirements of the Department of Juvenile Justice and Delinquency Prevention. ~~In particular, teen court programs receiving State funds shall report to the Department on the expenditure of State funds and the number of cases served each year.~~"

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

COMMUNITIES IN SCHOOLS REDUCTIONS

SECTION 16.3. The General Fund appropriation to the Department of Juvenile Justice and Delinquency Prevention for Communities in Schools of North Carolina, Inc., is reduced by the sum of one hundred two thousand five hundred dollars (\$102,500) for the 2002-2003 fiscal year. This reduction in funding shall be accomplished by reducing expenditures at the State office and not through reductions in funding to individual sites.

Requested by: Senators Thomas, Wellons, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 16.5. Section 24.4 of S.L. 2001-424 reads as rewritten:

"**SECTION 24.4.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the ~~2001-2002-2002-2003~~ 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 shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention 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 ~~2001-2002-2002-2003~~ fiscal year, the amount of funds anticipated for the ~~2002-2003-2003-2004~~ fiscal year, and the allocation of funds by program and purpose."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

PLANNING FOR NEW YOUTH DEVELOPMENT CENTER

SECTION 16.6. The Department of Juvenile Justice and Delinquency Prevention may initiate the planning and design of a new 300- to 500-bed youth

development center using funds allocated to the Department of Administration for the planning and design of juvenile justice facilities. The Department shall report by February 15, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate Appropriations Committee on Justice and Public Safety, and the House of Representatives Appropriations Subcommittee on Justice and Public Safety on its progress in the planning and design phase. The Department shall also provide a preliminary report on how its plan for a new center will ensure effective security and programming while achieving staffing efficiencies.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Sherrill, Nesbitt, Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 16.7. The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2002-2003 fiscal year. To the extent practicable during the 2002-2003 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2001-2002 fiscal year.

PART XVII. DEPARTMENT OF CORRECTION

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

ALL COUNTIES TRANSFERRING SAFEKEEPERS TO THE DEPARTMENT OF CORRECTION TO REIMBURSE DEPARTMENT REGARDLESS OF SAFEKEEPERS' RESIDENCY

SECTION 17.1. G.S. 162-39(c) reads as rewritten:

"(c) The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the jail or prison unit where he is to be held, and for returning him to the common jail of the county from which he was transferred. The return shall be made at the expiration of the time designated in the court order directing the transfer unless the judge, by appropriate order, shall direct otherwise. The sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of the prison unit designated by the Secretary of Correction, shall receive and release custody of the prisoner in accordance with the terms of the court order. If a prisoner is transferred to a unit of the State prison system, the county from which the prisoner is transferred shall pay the Department of Correction for maintaining the prisoner for the time designated by the court at the per day, per inmate rate at which the Department of Correction pays a local jail for maintaining a prisoner. The county shall also pay the Department of Correction for the costs of extraordinary medical care incurred while the prisoner was in the custody of the Department of Correction, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to a prisoner as an inpatient (hospitalized);
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to a prisoner as an outpatient (nonhospitalized); and
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the prisoner is incarcerated, provided the prisoner was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the county is obtained by the Department.

~~However, a county is not required to reimburse the State for maintaining a prisoner who was a resident of another state or county at the time he committed the crime for which~~

~~he is imprisoned.~~ If the prisoner is transferred to a jail in some other county, the county from which the prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the time designated by the court. Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section.

Whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the superior court or any superior or district court judge holding court in the district may order the prisoners transferred to a unit of the State Department of Correction designated by the Secretary of Correction or his authorized representative, where the prisoners may be held for such length of time as the judge may direct, such detention to be in cell separate from that used for imprisonment of persons already convicted of crimes, except when admission to an inpatient prison medical or mental health unit is required to provide services deemed necessary by a prison health care clinician. The sheriff of the county from which the prisoners are removed shall be responsible for conveying the prisoners to the prison unit or units where they are to be held, and for returning them to the common jail of the county from which they were transferred. However, if due to the number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, he may request the assistance of the Department of Correction, and the Department of Correction is hereby authorized and directed to cooperate with the sheriff and provide whatever assistance is available, both in vehicles and manpower, to accomplish the conveying of the prisoners to and from the county to the designated prison unit or units. The officer in charge of the prison unit designated by the Secretary of Correction or his authorized representative shall receive and release the custody of the prisoners in accordance with the terms of the court order. The county from which the prisoners are transferred shall pay to the Department of Correction the actual cost of transporting the prisoners and the cost of maintaining the prisoners at the per day, per inmate rate at which the Department of Correction pays a local jail for maintaining a prisoner, provided, however, that a county is not required to reimburse the State for transporting or maintaining a prisoner who was a resident of another state or county at the time he was arrested. However, if the county commissioners shall certify to the Governor that the county is unable to pay the bill submitted by the State Department of Correction to the county for the services rendered, either in whole or in part, the Governor may recommend to the Council of State that the State of North Carolina assume and pay, in whole or in part, the obligation of the county to the Department of Correction, and upon approval of the Council of State the amount so approved shall be paid from Contingency and Emergency Fund to the Department of Correction.

When, due to an emergency, it is not feasible to obtain from a judge of the superior or district court a prior order of transfer, the sheriff of the county and the Department of Correction may exercise the authority hereinafter conferred; provided, however, that the sheriff shall, as soon as possible after the emergency, obtain an order from the judge authorizing the prisoners to be held in the designated place of confinement for such period as the judge may direct. All provisions of this subsection shall be applicable to municipalities whenever prisoners are arrested in such numbers that the municipal jail facilities and the county jail facilities are insufficient and inadequate for the safekeeping of the prisoners. The chief of police is hereby authorized to exercise the authority herein conferred upon the sheriff, and the municipality shall be liable for the cost of transporting and maintaining the prisoners to the same extent as a county would be unless action is taken by the Governor and Council of State as herein provided for counties which are unable to pay such costs."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee;
Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

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 25.4 of S.L. 2001-424 reads as rewritten:

"SECTION 25.4. The Department of Correction may use funds ~~appropriated available~~ to the Department for the ~~2001-2002 fiscal year~~ 2001-2003 biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives 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."

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 17.3. Section 25.21 of S.L. 2001-424 reads as rewritten:

"SECTION 25.21. The Post-Release Supervision and Parole Commission shall ~~provide quarterly reports~~ report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

- (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the previous quarter and the total number of those inmates that were paroled. The report should group these inmates by ~~offense type and custody classification; type, custody classification, and type of parole;~~
- (2) ~~A list of all those inmates paroled or released by category of parole or release, including each inmate's offense and custody classification at the time of the parole or release;~~
- (3)(2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and
- (4)(3) The projected number of parole-eligible inmates to be paroled or released by the end of the ~~2001-2002~~ 2002-2003 fiscal year and by the end of the ~~2002-2003~~ 2003-2004 fiscal year."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

SHIFT PAY AND HOLIDAY PAY FOR SECURITY STAFF

SECTION 17.4. The Department of Correction may use funds appropriated for the 2002-2003 fiscal year for the payment to security staff of special premium holiday pay that exceeds standard holiday pay by up to twenty-five percent (25%). The Department of Correction may use funds available for the 2002-2003 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1,

2003, on the benefits to recruitment and retention of correctional staff as a result of the use of special holiday pay and shift premium pay, as well as its progress in converting prison work shifts from eight hours to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts.

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

SECTION 17.5.(a) The Department of Correction shall conduct security staffing post-audits of each prison at least biannually, the first such audit to be completed during the 2002-2003 fiscal year. The initial post-audit shall be conducted jointly by Department staff and a consultant, external to the Department, and shall include analysis of the staffing levels assigned for supervision of correctional officers.

SECTION 17.5.(b) The Department of Correction shall update the security staffing relief formula biannually, the first update to be completed during the 2002-2003 fiscal year. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training.

SECTION 17.5.(c) The Department of Correction shall report the results of the initial security staffing post-audits and relief formula update to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2003.

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

COMMUNITY WORK CREWS

SECTION 17.6.(a) The Department of Correction shall implement a reduction in inmate community work crews systemwide, but work crews shall not be reduced at any locations that have fewer than three work crews.

The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars (\$1,300,000) from the Highway Fund to the Department of Correction during the 2002-2003 fiscal year to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

SECTION 17.6.(b) The Department of Correction shall identify locations where the number of inmate work crews is being reduced or diverted to perform litter control for the Department of Transportation and, to the extent possible, arrange for community service work program placements so that the affected work projects for State and local governments can be maintained. The Department shall report by March 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all projects formerly performed by inmate work crews that have been continued through the community service work program.

SECTION 17.6.(c) The Department of Correction shall identify all inmate labor supplied to public agencies for which the Department does not receive reimbursement for the costs of the labor and the supervision of the labor. The Department shall report by March 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the type of labor provided, the number of security positions assigned for that labor, and the actual costs of providing the labor and supervision. The report shall also identify

alternative methods for charging public agencies for the costs of inmate labor and the supervision of that labor.

Requested by: Senators Thomas, Wellons, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

SUBSTANCE ABUSE PROGRAMS

SECTION 17.7. G.S. 143B-262.1 reads as rewritten:

"§ 143B-262.1. Department of Correction – Substance Abuse Program.

(a) The Substance Abuse Program established by subsection (d) of § 143B-262 shall be offered in a ~~medium-custody~~ correctional facility, or a portion of a ~~medium eustody~~ correctional facility that is self-contained, so that the residential and program space is separate from any other programs or inmate housing, and shall be operational by January 1, 1988, at such unit as the Secretary may designate.

(b) An Assistant Secretary for Substance Abuse shall be employed and shall report directly to the Office of the Secretary of Correction. ~~A Correctional Administrator I shall be employed to manage programs for offenders with substance abuse problems in the Department of Correction and its divisions. The Correctional Administrator I shall report to the Assistant Secretary for Substance Abuse. A Secretary IV shall be employed to assist the Correctional Administrator I. An Administrative Officer II and a Secretary IV shall be employed to assist the Assistant Secretary and work under his direction and management.~~ The duties of the Assistant Secretary shall include the following:

- (1) Administer and coordinate all substance abuse programs, grants, contracts, and related functions in the Department of Correction;
- (2) Develop and maintain working relationships and agreements with agencies and organizations that will assist in developing and operating a Substance Abuse Program in the Department of Correction;
- (3) Develop and coordinate the use of volunteers in the Substance Abuse Program;
- (4) Develop and present training programs related to substance abuse for employees and others at all levels in the agency;
- (5) Develop programs that provide effective treatment for inmates, probationers, and parolees with substance abuse problems;
- (6) Maintain contact with key leaders in the substance abuse field and active supporters of the Correction Program;
- (7) Supervise directly the directors of treatment units, specialized personnel, and programs that exist or may be developed in the Department of Correction; and
- (8) Develop employee assistance programs for employees with substance abuse problems.

~~(c) Ten additional program staff shall be employed. There shall be a Correctional Program Director II who is responsible to the Assistant Secretary for Substance Abuse. This employee shall be responsible for managing and implementing the inpatient treatment program. Also employed will be a Correctional Program Director I, two Correctional Program Supervisors, four Correctional Program Assistant II's, one Correctional Program Assistant I, and one Clerk Stenographer IV.~~

~~(d) The duties of the Program Director shall include the following:~~

- ~~(1) Implement and manage the inpatient treatment program for inmates with substance abuse problems;~~
- ~~(2) Supervise personnel assigned to the inpatient treatment program;~~
- ~~(3) Assist in developing the treatment program for inmates with substance abuse problems;~~
- ~~(4) Recruit and develop staff for the inpatient program and other staff as required;~~

- ~~(5) Assist in developing linkage and follow up of inmates between the inpatient program, related agencies, organizations, and other facilities of the Department of Correction;~~
- ~~(6) Be responsible for treatment plans and daily activities and schedules for all assigned inmates;~~
- ~~(7) Develop methods for involving families of inmates in the program to the extent deemed appropriate and useful; and~~
- ~~(8) Other duties as required.~~

~~Preference shall be accorded to qualified recovering alcoholics and substance abusers in the employment of treatment counselors.~~

~~(e) In the unit there shall be a unit superintendent under the Division of Prisons and other custodial, administrative, and support staff as required for a medium custody facility for approximately 100 inmates. The unit superintendent shall be responsible for all matters pertaining to custody and administration of the unit. The Correctional Program Director II will Assistant Secretary shall designate an employee to administer the inpatient treatment program under the direction of the Assistant Secretary for Substance Abuse.~~

(f) Extensive use may be made of inmates working in the role of ancillary staff, peer counselors, role models, or group leaders as the program manager determines. Additional resource people who may be required for specialized treatment activities, presentations, or group work may be employed on a fee or contractual basis.

~~(g) The Program in each unit shall be structured such that approximately 25 offenders will enter the Program on a weekly basis.~~

(h) Admission priorities shall be established as follows:

- (1) Court recommendation.
- (2) Evaluation and referral from reception and diagnostic centers.
- (3) General staff referral.
- (4) Self-referral.

The Program shall include extensive follow-up after the period of intensive treatment. There will be specific plans for each departing inmate for follow-up, including active involvement with Alcoholics Anonymous, community resources, and personal sponsorship."

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

USE OF CLOSED PRISON FACILITIES

SECTION 17.8. Section 25.5 of S.L. 2001-424 reads as rewritten:

"SECTION 25.5. In conjunction with the closing of prison facilities, including 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, 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 the future needs of the Department of Correction, the State may provide for the transfer or the lease 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~~, one security custody level to another, 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 Health and Human Services 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, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice 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: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

MEDICAL BUDGET FOR PRESCRIPTION DRUGS

SECTION 17.9. Section 25.6(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 25.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2001-2002 fiscal year~~ 2001-2003 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

The Department of Administration, Purchase and Contract Division, and the Department of Correction shall review the current statewide contract for purchase of prescription drugs as it applies to the Department of Correction's purchases for inmates to determine if the Department is receiving the lowest rate available and to determine whether the Department should be authorized to issue a request for proposals for a separate vendor or purchasing consortium for the provision of prescription drugs for inmates. The Departments shall report on their findings to the Joint Legislative Commission on Governmental Operations by February 1, 2002."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

ELECTRONIC MONITORING COSTS

SECTION 17.10.(a) Article 1 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"**§ 148-10.3. Electronic monitoring costs.**

Personnel, equipment, and other costs of providing electronic monitoring of pretrial or sentenced offenders shall be reimbursed to the Department of Correction by the State or local agency requesting the service in an amount not exceeding the actual costs."

SECTION 17.10.(b) The Department of Correction shall report by March 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on efforts to increase the use of electronic monitoring of sentenced offenders in the community as an alternative to the incarceration of probation violators. The report shall also document the geographical distribution of electronic monitoring use.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

COLLECTION OF OFFENDER FEES

SECTION 17.11. The Department of Correction and the Judicial Department shall jointly develop a plan to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service. The plan should address improving both the rate at which offenders are levied fees by the courts and the rate at which those offenders satisfy their obligations. The plan shall address

steps to improve the overall collection rate for probation supervision fees from thirty-six percent (36%) to forty percent (40%) during the 2002-2003 fiscal year and ideas for improving the collection rate for community service work program fees.

The two departments shall report by April 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve these collection rates and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

MOBILE MEDICAL OPERATING ROOM

SECTION 17.12. The Department of Correction shall continue the contract for a mobile medical operating room at Central Prison for the 2002-2003 fiscal year at a reduced fixed rate that more clearly reflects the usage. However, the Department shall use the mobile unit for additional procedures, as authorized by the terms of the agreement, whenever the Department's Utilization Review Team determines that (i) a specific procedure can be performed at a cost below that charged by a public or private hospital; and (ii) there is no compelling medical reason for performing the procedure in a hospital instead of using the mobile medical unit.

The Department shall also study the use of this mobile operating room and report by March 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety. The report shall recommend whether the mobile unit should be continued, eliminated, or expanded in terms of capacity of the current unit and the potential for establishing an additional mobile unit. The report shall also include information on the number and type of procedures performed over and above the fixed-rate contract and the savings generated.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

CRIMINAL JUSTICE PARTNERSHIP PROGRAM

SECTION 17.13.(a) Notwithstanding the provisions of G.S. 143B-273.16, Caswell and Union Counties shall not receive implementation funding for the Criminal Justice Partnership Program for the 2002-2003 fiscal year. However, those counties will be eligible to reapply for funding in future years.

SECTION 17.13.(b) It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services. The Division of Community Corrections shall identify at least the sum of three hundred fifty-nine thousand three hundred thirty dollars (\$359,330) in cost savings during the 2002-2003 fiscal year by eliminating funding for personnel in these cases. However, the reduction in implementation grant funding for those affected counties shall not in any case exceed twelve and one-half percent (12.5%) of that county's 2001-2002 funding.

Within 20 days of the date this act becomes law, each county Criminal Justice Partnership advisory board shall review the Division's recommended modifications for providing Criminal Justice Partnership Program case management services in its jurisdiction and determine whether these services can be reasonably provided in the manner proposed. If the local board determines that the services cannot be reasonably provided, the jurisdiction may opt instead to have the designated reduction made from other items in its budget. If the board determines that the services can be reasonably provided, the recommended modifications shall be reviewed and approved by the State Criminal Justice Partnership Advisory Board within another 10 days. Revised contracts

should be sent to the counties no later than 45 days after this act becomes law. The Division of Community Corrections shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the specific adjustments within 60 days of the enactment of the budget for the 2002-2003 fiscal year.

SECTION 17.13.(c) Programs that were not operational between July 1, 2002, and the enactment of the 2002-2003 State budget shall be limited to no more than seventy-five percent (75%) of the funding they would have otherwise received from the Criminal Justice Partnership Program.

SECTION 17.13.(d) Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

CONVERSION OF CONTRACTED MEDICAL POSITIONS

SECTION 17.14.(a) The Department of Correction may convert contract medical positions to permanent State medical positions at individual correctional facilities if the Department can document that the total savings generated will exceed the total cost of the new positions for each facility. Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.

SECTION 17.14.(b) The Department of Correction shall report by October 1, 2002, to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings generated at each correctional facility.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

REDUCE SUMMIT HOUSE APPROPRIATION

SECTION 17.15. Subsection (a) of Section 25.14 of S.L. 2001-424 reads as rewritten:

"SECTION 25.14.(a) The General Fund appropriation to the Department of Correction for Summit House, Inc., is reduced by the sum of one hundred thirty-nine thousand six hundred fifty dollars (\$139,650) for ~~each year of the 2001-2003 biennium.~~ This the 2001-2002 fiscal year and by the sum of one hundred sixty-five thousand two hundred ninety-nine dollars (\$165,299) for the 2002-2003 fiscal year. The ten percent (10%) reduction in funding for the 2001-2002 fiscal year shall be accomplished by reducing expenditures at the State office and not through reductions in funding to individual sites. The additional reduction for the 2002-2003 fiscal year shall be accomplished by reducing State funding for the State office only.

The Summit House Management Team shall continue to explore ways to reduce the use of State funds at the State office, including consideration of colocating the State office with one of the local programs and contracting for financial services in lieu of a full-time staff. As of May 1, 2003, no State funds shall be used to support the State office."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

PRISON CHAPLAIN STUDY

SECTION 17.17. The Department of Correction shall study the feasibility of converting its prison chaplain program into a community-based program emphasizing the use of volunteers and community funding and allowing for contracting for the services of prison chaplains in areas where such volunteers or funding are not available.

The Department shall report the results of this study to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2003. The report shall include an analysis of the cost savings to be realized through the implementation of a community-based prison chaplain program, as well as addressing the potential for securing the services of prison chaplains through a statewide contract.

Requested by: Senators Thomas, Wellons, Ballance, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

ELIMINATE IMPACT PROGRAM

SECTION 17.18.(a) G.S. 15A-1343(b1)(2a) is repealed.

SECTION 17.18.(b) G.S. 15A-1343.1 is repealed.

SECTION 17.18.(c) Funds appropriated to the Department of Correction for the 2002-2003 fiscal year are reduced by four million sixty-six thousand five hundred ninety-five dollars (\$4,066,595) as a result of the termination of the IMPACT boot camp program, effective August 15, 2002. Of the remaining funds budgeted for the IMPACT program, the Department shall use the sum of three hundred ninety thousand three hundred twelve dollars (\$390,312) to establish 12 inmate community work crews as follows: one crew each at Marion, Rutherford, Catawba, and Caldwell correctional facilities, and two crews each at Southern, Anson, Robeson, and Sanford correctional facilities.

SECTION 17.18.(d) This section becomes effective August 15, 2002.

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senators Thomas, Wellons, Ballance, Albertson, Plyler, Odom, Lee; Representatives Culpepper, Haire, Easterling, Oldham, Redwine

TARHEEL CHALLENGE MATCHING FUNDS

SECTION 18.2. The North Carolina National Guard shall identify alternative sources of funding, including local and private funds, to be used to meet the forty percent (40%) match requirement for federal funds.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

EXEMPT STATE HIGHWAY PATROL FROM UMSTEAD ACT

SECTION 18.5. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(22) The North Carolina State Highway Patrol."

Requested by: Senators Thomas, Wellons, Ballance, Rand, Plyler, Odom, Lee; Representatives Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

COMPLY WITH FEDERAL VIOLENCE AGAINST WOMEN ACT

SECTION 18.6.(a) G.S. 143B-480.2 reads as rewritten:

"§ 143B-480.2. **Victim assistance.**

(a) Eligibility for Assistance. – Sexual assault victims or victims of attempted sexual assault are eligible for assistance under this Program if the sexual assault or the attempted sexual assault is reported to a law enforcement officer within five days of the occurrence of the assault or the attempted sexual assault or if a forensic medical examination is performed within five days of the sexual assault or the attempted sexual assault. The Secretary may waive either five-day requirement for good cause. The term

"sexual assault" as used in this section refers to the following crimes: 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 statutory rape as defined in G.S. 14-27.7A, 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.

(b) Eligible Expenses. – Assistance is limited to the following expenses incurred by the victim:

- (1) Immediate and short-term medical expenses.
- (2) Ambulance services from the place of the attack to a place where medical treatment is provided.
- (3) Mental health services provided by a professional licensed or certified by the State to provide such services, not to exceed one thousand dollars (\$1,000) incurred by the victim for the
- (4) A forensic medical examination. As used in this section, the term "forensic medical examination" means an examination provided to a sexual assault victim eligible for assistance under subsection (a) of this section by medical personnel who gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include an examination of physical trauma, a patient interview, and a collection and evaluation of evidence.
- (5) Counseling treatment which follow following the attack, attack, or ambulance services from the place of the attack to a place where medical treatment is provided.

(c) Amount of Assistance. – The Program shall pay for the full out-of-pocket cost of the victim's forensic medical examination. The Program shall pay for all other eligible expenses set out in subsection (b) of this section in an amount not to exceed the difference between the full out-of-pocket cost of the forensic medical examination and one thousand dollars (\$1,000). If the full out-of-pocket cost for the forensic medical examination costs more than one thousand dollars (\$1,000), then the Program shall pay only for the full out-of-pocket cost of the forensic medical examination. Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to replace clothing that was held for evidence tests.

(d) Payment Directly to Provider. – With the exception of assistance authorized under subsection (e) of this section, assistance for expenses authorized under this section is to be paid directly to any hospital, ambulance service, attending physicians, or mental health professionals providing counseling, upon the filing of proper forms. Payment for the full out-of-pocket cost of the forensic medical examination shall be paid to the provider no later than 90 days after receiving the required written notification of the victim's expense.

(e) Assistance shall not be awarded unless the rape, attempted rape, sexual offense, or attempted sexual offense was reported to a law enforcement officer within 72 hours after its occurrence or the Secretary finds there was good cause for the failure to report within that time.

(e) Judicial Review. – Upon an adverse determination by the Secretary on a claim for medical expenses, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(f) Examinations by Licensed Registered Nurse. – If the forensic medical examination is conducted by a licensed registered nurse who has successfully completed a program approved under G.S. 90-171.38(b), payment for the full out-of-pocket cost of the forensic medical examination may be made directly to the licensed registered nurse in lieu of any payment which may otherwise have been made under subsection (d) of this section. Payment for the full out-of-pocket costs of a forensic medical

~~examination under this subsection shall be paid no later than 90 days after receiving the required written notification of the victim's expense assistance for expenses for services authorized under this section that are provided for the purpose of collecting evidence from victims of crimes identified in G.S. 90-171.38(b) may be paid directly to any licensed registered nurse who has successfully completed a program approved under G.S. 90-171.38(b). The Secretary shall adopt rules to facilitate the payments authorized under this subsection and to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures."~~

SECTION 18.6.(b) The Department of Crime Control and Public Safety may use funds available to the Department in order to implement the provisions of this section.

SECTION 18.6.(c) This section becomes effective December 1, 2002.

Requested by: Senators Thomas, Wellons, Ballance, Rand, Garrou, Plyler, Odom, Lee; Representatives Baddour, Decker, Culpepper, Haire, Luebke, Easterling, Oldham, Redwine

THE NORTH CAROLINA CHILD ALERT NOTIFICATION SYSTEM – NC CAN (AMBER ALERT)

SECTION 18.7.(a) G.S. 143B-499.1 reads as rewritten:

"§ 143B-499.1. Dissemination of missing persons data by law-enforcement agencies.

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, or legal custodian, shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center.

If the report involves a missing child and the report meets the criteria established in G.S. 143B-499.7(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center of the relevant data about the missing child."

SECTION 18.7.(b) G.S. 143B-499.2 is amended by adding a new subdivision to read:

"(6a) Develop and maintain the North Carolina Child Alert Notification System (NC CAN) as created by G.S. 143B-499.7;"

SECTION 18.7.(c) Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-499.7. North Carolina Child Alert Notification System established.

(a) There is established within the North Carolina Center for Missing Persons the North Carolina Child Alert Notification System (NC CAN). The purpose of NC CAN is to provide a statewide system for the rapid dissemination of information regarding abducted children.

(b) The NC CAN System shall make every effort to disseminate information on missing children as quickly as possible when the following criteria are met:

- (1) The child is 12 years of age or younger;
- (2) The child is believed to have been abducted;
- (3) The child is believed to be in danger of injury or death;
- (4) The abduction is not known or suspected to be by a parent of the child;
- (5) The child is not a runaway or voluntarily missing; and
- (6) The abduction has been reported to and investigated by a law enforcement agency.

The NC CAN System may disseminate information on missing children who are ages 13 to 17 on a case-by-case basis, if all other criteria in subdivisions (2) through (6)

of this subsection have been met, if the Center believes the dissemination of the information to be beneficial in the possible recovery of the missing child.

If the abduction of the child is known or suspected to be by a parent of the child, the Center, in its discretion, may disseminate information through the NC CAN System if the child is believed to be in danger of injury or death.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the NC CAN System and shall provide education and training to encourage radio and television broadcasters to participate in the System. The Center shall work with the Department of Justice in developing training material regarding the NC CAN System for law enforcement, broadcasters, and community interest groups.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section, when information is available that would enable motorists to assist law enforcement in the recovery of the missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign.

(e) The Center shall consult with the Division of Emergency Management, in the Department of Crime Control and Public Safety, to develop a procedure for the use of the Emergency Alert System to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section.

(f) The Department of Crime Control and Public Safety, on behalf of the Center, may accept grants, contributions, devises, bequests, and gifts, which shall be kept in a separate fund, which shall be nonreverting, and shall be used to fund the operations of the Center and the NC CAN System."

SECTION 18.7.(d) Subsection (a) of this section becomes effective October 1, 2002. The remainder of this section is effective when it becomes law.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

STATE FLOODPLAIN MAPPING PROJECT

SECTION 18.8. Section 25 of S.L. 2001-513 reads as rewritten:

~~"SECTION 25. The Department of Crime Control and Public Safety shall complete Phase 1 of the floodplain mapping for the Cape Fear River Basin by December 30, 2002. December 30, 2003. The Department of Crime Control and Public Safety shall use available federal funds to complete Phase 1 of the floodplain mapping for the Cape Fear River Basin; however, if the federal funds are insufficient to complete Phase 1, then the Department may use up to six million dollars (\$6,000,000) from the Reserve for Disaster Relief (Budget Code 19930) to complete Phase 1 of the floodplain mapping.~~

The Department of Crime Control and Public Safety may use up to three million dollars (\$3,000,000) from the Reserve for Disaster Relief (Budget Code 19930) to initiate Phase 2 of the floodplain mapping for the Catawba River Basin and for the Yadkin River Basin. initiate Phase 2 of the floodplain mapping, including the Catawba and Yadkin River Basins. Nine million dollars (\$9,000,000) shall be transferred from the reserve for disaster relief (Budget Code 19930) and used to maximize/match federal funds for the purpose of continuing the State floodplain mapping program. State funds and federal funds shall be expended first to complete the floodplain mapping for the Cape Fear River Basin and secondly for the Catawba and Yadkin River Basins."

PART XIX. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Insko, Hackney, Allen, Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

**OCCANEECHI BAND OF THE SAPONI NATION ON THE NORTH
CAROLINA STATE COMMISSION OF INDIAN AFFAIRS**

SECTION 19.1A.(a) G.S. 143B-407 reads as rewritten:

**"§ 143B-407. North Carolina State Commission of Indian Affairs - membership;
term of office; chairman; compensation.**

(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Environment and Natural Resources, the Commissioner of Labor or their designees and ~~20~~ 21 representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the Indians of Person County; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties, and the Native Americans located in Cumberland, Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The Coharie shall have two members; the Eastern Band of Cherokees, two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the Indians of Person County, one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two; the Occaneechi Band of the Saponi Nation, one, the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. The initial appointment of the Occaneechi Band of the Saponi Nation shall expire June 30, 2005. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5."

SECTION 19.1A.(b) Any expenses incurred under this section shall be paid by the Department of Administration out of existing appropriations.

SECTION 19.1A.(c) This section becomes effective November 1, 2002.

Requested by: Senators Warren, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine

INCREASE EFFICIENCY OF MAIL SERVICE CENTER

SECTION 19.2. G.S. 143-341(8)g. reads as rewritten:

"g. To establish and operate a central mailing system for all State agencies, and in connection therewith and in the discretion of the Secretary, to make application for and procure a post-office substation for that purpose, and to do all things necessary in connection with the maintenance of the central mailing system. The Secretary may allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the central mailing system. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State agencies and ensures timely delivery of mail, and shall present that plan to the Office of State Budget and Management and the General Assembly no later than the convening date of the 2003 General Assembly."

Requested by: Senators Warren, Harris, Swindell, Rand, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS AMENDMENTS

SECTION 19.3.(a) G.S. 165-20(3) reads as rewritten:

"§ 165-20. Definitions.

As used in this Article the terms defined in this section shall have the following meaning:

- (3) 'Child' means a person: (i) under 25 years of age at the time of application for a scholarship, (ii) who is a domiciliary of North Carolina and is a resident of North Carolina when applying for a scholarship, ~~(ii) who is a senior in high school or its equivalent and who will graduate at the end of the academic year or a person (iii) who has completed high school or its equivalent, (iii) equivalent prior to receipt of a scholarship awarded under this Article,~~ (iv) who has complied with the requirements of the Selective Service System, if applicable, and ~~(iv)~~(v) who further meets one of the following requirements:
- a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into that period of service in the armed forces during which eligibility is established under G.S. 165-22.
 - b. A veteran's child who was born in North Carolina and has ~~lived in~~ been a resident of North Carolina continuously since birth. Provided, that the requirement in the preceding sentence as to birth in North Carolina may be waived by the Department of Administration if it is shown to the satisfaction of the Department that the child's mother was a native-born resident of North Carolina and was such resident at the time of her marriage to the veteran and was outside the State temporarily at the time of the child's birth, following which the child was returned to North Carolina within a reasonable period of time where said child has since lived continuously.
 - c. A person meeting either of the requirements set forth in subdivision (3)a or b above, and who was legally adopted by the veteran prior to said person's reaching the age of 15 years."

SECTION 19.3.(b) G.S. 165-21 reads as rewritten:

"§ 165-21. Scholarship.

(a) A scholarship granted pursuant to this Article shall consist of the following benefits in either a State or private educational institution:

- (1) With respect to State educational institutions, unless expressly limited elsewhere in this Article, a scholarship shall consist of:
 - a. Tuition,
 - b. A reasonable board allowance,
 - c. A reasonable room allowance,
 - d. Matriculation and other institutional fees required to be paid as a condition to remaining in said institution and pursuing the course of study selected, excluding charges or fees for books, supplies, tools and clothing.
- (2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in G.S. 165-22.1(d).
- (3) Only one scholarship may be granted pursuant to this Article with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive.
- (4) No educational assistance shall be afforded a child under this Article after the end of ~~a 10-year~~ an eight-year period beginning on the date the scholarship is first awarded. Those persons who have been granted a scholarship under this Article prior to the effective date of this act shall be entitled to the remainder of their period of scholarship eligibility if used prior to August 1, ~~1999~~ 2010. Whenever a child is enrolled in an educational institution and the period of entitlement ends while enrolled in a term, quarter or semester, such period shall be extended to the end of such term, quarter or semester, but not beyond the entitlement limitation of four academic years.

~~(b) If a child is awarded a scholarship under this Article and the child is a senior in high school or its equivalent, then the scholarship shall be awarded pending the graduation of the child.~~

(c) If a child is awarded a scholarship under this Article, the Commission shall notify the recipient by May 1st of the year in which the recipient enrolls in college."

SECTION 19.3.(c) G.S. 165-22 reads as rewritten:

"§ 165-22. Classes or categories of eligibility under which scholarships may be awarded.

A child, as defined in this Article, who falls within the provisions of any eligibility class described below shall, upon proper application be considered for a scholarship, subject to the provisions and limitations set forth for the class under which he is considered:

- (1) Class I-A: Under this class a scholarship shall be awarded to any child whose veteran parent
 - a. Was killed in action or died from wounds or other causes not due to his own ~~wilful~~ willful misconduct while a member of the armed forces during a period of war, or
 - b. Has died of service-connected injuries, wounds, illness or other causes incurred or aggravated during wartime service in the armed forces, as rated by the United States Department of Veterans Affairs.
- (2) Class I-B: Under this class a limited scholarship providing only those benefits set forth in G.S. 165-21(1)a and d and 165-21(2) of this Article, shall be awarded to any child whose veteran parent, at the time the benefits pursuant to this Article are sought to be availed of, is or was at the time of his death receiving compensation for a wartime service-connected disability of one hundred percent (100%) as rated by

the United States Department of Veterans Affairs. Provided, that if the veteran parent of a recipient under this class should die of his wartime service-connected condition before the recipient shall have utilized all of his scholarship eligibility time, then the North Carolina Department of Administration shall amend the recipient's award from Class I-B to Class I-A for the remainder of the recipient's eligibility time. The effective date of such an amended award shall be determined by the Department of Administration, but, in no event shall it predate the date of the veteran parent's death.

- (3) Class II: Under this class a scholarship may be awarded to not more than 100 children yearly, each of whose veteran parent, at the time the benefits pursuant to this Article are sought to be availed of:
- a. Is or was at the time of his death receiving compensation for a wartime service-connected disability of twenty percent (20%) or more, but less than one hundred percent (100%), as rated by the United States Department of Veterans Affairs, or
 - b. ~~Is or was at the time of his death receiving wartime compensation for a statutory award for arrested pulmonary tuberculosis, as rated by the United States Department of Veterans Affairs.~~ Was awarded a Purple Heart for wounds received as a result of an act of any opposing armed force, as a result of an international terrorist attack, or as a result of military operations while serving as part of a peacekeeping force.
- (4) Class III: Under this class a scholarship may be awarded to not more than 100 children yearly, each of whose veteran parent, at the time the benefits pursuant to this Article are sought to be availed of:
- a. Is or was at the time of his death drawing pension for permanent and total disability, nonservice-connected, as rated by the United States Department of Veterans Affairs, ~~or Affairs.~~
 - b. Is deceased and who does not fall within the provisions of any other eligibility class described in G.S. 165-22(1), (2), (3), (4)a., nor ~~(5) provided such child is less than 23 years of age at the time of application for such scholarship.(5).~~
 - c. Served in a combat zone, or waters adjacent to a combat zone, or any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal, who does not fall within the provisions of any other class described in G.S. 165-22(1), (2), (3), (4)a., or (5).
- (5) Class IV: Under this class a scholarship as defined in G.S. 165-21 shall be awarded to any child whose parent, while serving honorably as a member of the armed forces of the United States in active federal service during a period of war, as defined in G.S. 165-20(4), was listed by the United States government as (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power."

SECTION 19.3.(d) G.S. 165-22.1(c) reads as rewritten:

"(c) Allowances for room and board in State educational institutions shall be at such rate as ~~the Director of the Budget may determine to be reasonable. established by the Secretary of the Department of Administration.~~

SECTION 19.3.(e) This section becomes effective November 1, 2002, and applies to awards made for the 2003-2004 school year.

Requested by: Senators Warren, Harris, Swindell, Hoyle, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine
REGIONAL OFFICE CONSOLIDATION PLAN

SECTION 19.4. The Department of Administration, State Property Office, in consultation with all State agencies, shall identify regional offices established throughout the State in all State agencies and shall develop a plan that provides for the consolidation of the individual regional offices into a central facility in each region, giving consideration to sharing space and utilizing vacant space, and to availability of space in all agencies, including university and community college campuses. The Department shall report its findings and recommendations to the Chairs of the Appropriations Committees of the Senate and House of Representatives and to the Fiscal Research Division by November 1, 2002.

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine
PETROLEUM OVERCHARGE FUNDS ALLOCATION

SECTION 19.6.(a) There is appropriated from funds and interest thereon received from the case of United States vs. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one million dollars (\$1,000,000) for the 2002-2003 fiscal year. The Department shall allocate these funds to the Weatherization Assistance Program.

SECTION 19.6.(b) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation is made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Dedmon, Wainwright, Easterling, Oldham, Redwine
RETAIN YOUTH ADVOCACY AND INVOLVEMENT OFFICE

SECTION 19.7. The Governor and the Department of Administration shall continue to maintain the Youth Advocacy and Involvement Office within the Department of Administration through June 30, 2003, at a funding level as provided by the General Assembly. The Secretary of the Department of Administration shall present a plan or recommendation to the Chairs of the Joint Appropriations Subcommittee on General Government by January 31, 2003, for reorganizing that Office. The recommendation may call for the Youth Advocacy and Involvement Office or its functions to be maintained either within the Department of Administration or transferred to another agency or to a nonprofit organization.

PART XX. OFFICE OF THE STATE AUDITOR

PART XXI. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senators Warren, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine
NC ARTS COUNCIL LIMIT USE OF CONSULTANTS

SECTION 21.1. The North Carolina Arts Council shall limit the use of consultants to evaluate and approve applications for arts and cultural grants for individuals and organizations and shall conduct the grants process with the Division of Arts Council staff.

Requested by: Senators Warren, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine
MUSEUM ADMISSION FEE STUDY

SECTION 21.2. The Office of State Budget and Management shall study the feasibility of charging an admission fee to the State's museums and other similar facilities open to the public. The Office of State Budget and Management shall conduct the study in consultation with the Fiscal Research Division of the Legislative Services Office. The Office of State Budget and Management shall complete this study and report to the Chairs of the Senate and House of Representatives Appropriations Committees by November 1, 2002.

PART XXII. DEPARTMENT OF REVENUE

Requested by: Senators Warren, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine

DOR REPORTS ON DEBT COLLECTION

SECTION 22.2. G.S. 105-243.1(f) reads as rewritten:

"(f) Reports. – The Department must report to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Reports must be submitted quarterly beginning November 1, 2001, through ~~November 1, 2002~~, June 30, 2005, and semiannually thereafter. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long-term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee."

Requested by: Senators Warren, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine

DOR VACANT POSITIONS

SECTION 22.3. The Department of Revenue shall reclassify vacant positions and allocate up to eight hundred fifty-five thousand forty-seven dollars (\$855,047) in recurring funds for the 2002-2003 fiscal year and up to two hundred thousand one hundred dollars (\$200,100) in nonrecurring funds for the 2002-2003 fiscal year as follows:

- (1) To increase staff and provide operating costs in the Criminal Investigations Division to expand fraud investigations.
- (2) To support the Department of Justice's personnel and operating expenses for legal services related to the expansion of fraud investigations.

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

DOR DEBT COLLECTION FUNDS

SECTION 22.4. The Department of Revenue may use up to six hundred thousand dollars (\$600,000) during the 2002-2003 fiscal year from the collection assistance fee account created in G.S. 105-243.1 to be allocated as follows:

- (1) Two hundred thousand dollars (\$200,000) for contractual services related to system changes for managing and filing bankruptcies.
- (2) Four hundred thousand dollars (\$400,000) for identifying delinquent taxpayers.

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

DOR REPORT ON LOCAL TAX ADMINISTRATION EXPENSES

SECTION 22.5. G.S. 105-256 is amended by adding a new subsection to read:

"(e) Local Tax Administration Expenses. – The Secretary must report quarterly to the chairs of the Appropriations Committees and Finance Committees of each house of the General Assembly and to the Fiscal Research Division on the Department's expenditures of funds withheld from distributions to local governments to cover its costs of administering local taxes and local programs. The report must itemize expenditures for personnel, operating expenses, and nonrecurring expenses by division and must specify the source of the withheld funds in each case. The report is due 20 days after the end of each quarter."

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

DOR TAXPAYER TELECOMMUNICATIONS SERVICE

SECTION 22.6.(a) The Department of Revenue may draw up to three million dollars (\$3,000,000) through June 30, 2004, from the collection assistance fee account created in G.S. 105-243.1 in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.

SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.

SECTION 22.6.(c) Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center.

PART XXV. OFFICE OF THE STATE CONTROLLER

Requested by: Senators Warren, Harris, Swindell, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine

OVERPAYMENTS AUDIT

SECTION 25.1.(a) During the 2002-2003 fiscal year, receipts generated by the collection 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 as required by G.S.147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 25.1.(b) For the 2002-2003 fiscal year, two hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or other information technology initiatives.

SECTION 25.1.(c) Of the unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section, the sum of up to five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year may be used to continue the State Business Infrastructure Study enacted in Section 17.1 of S.L. 2001-491.

SECTION 25.1.(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account 24172 and the disbursement of that revenue.

SECTION 25.1.(e) Section 17.2 of S.L. 2001-491 reads as rewritten:

~~"SECTION 17.2. The Director of the Budget may identify funds to support this study. The State Controller may utilize funds in the Special Reserve Account 24172 to support this study. This provision shall not apply to The University of North Carolina constituent institutions or to the constituent institutions of the North Carolina Community Colleges System."~~

SECTION 25.1.(f) Section 17.3 of S.L. 2001-491 reads as rewritten:

"SECTION 17.3. The Office of State Controller shall present an interim report of the study prescribed in this section to the ~~2002~~ 2003 Regular Session of the ~~2001~~ General Assembly, and shall submit a final report to the 2004 Regular Session of the 2003 General Assembly, Regular Session 2003-Assembly."

PART XXVI. DEPARTMENT OF TRANSPORTATION

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 26.1. Section 27.4(a) of S.L. 2001-424 reads as rewritten:

"SECTION 27.4.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 2003-2004	\$1,334.6 million	<u>\$1,328.9 million</u>
FY 2004-2005	\$1,369.8 million	<u>\$1,374.0 million</u>
FY 2005-2006	\$1,406.1 million	<u>\$1,422.4 million</u>
FY 2006-2007	\$1,445.5 million	<u>\$1,472.6 million</u>

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

FY 2003-2004	\$1,127.6 million	<u>\$1,019.4 million</u>
FY 2004-2005	\$1,176.5 million	<u>\$1,058.5 million</u>
FY 2005-2006	\$1,226.8 million	<u>\$1,110.2 million</u>
FY 2006-2007	\$1,278.4 million	<u>\$1,162.5 million</u>

Requested by: Senators Gulley, Garrou, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

HIGHWAY TRUST FUND STUDY COMMITTEE CONTINUED

SECTION 26.2.(a) Section 27.6(b) of S.L. 2001-424 reads as rewritten:

"SECTION 27.6.(b) Membership. – The Study Committee shall be composed of ~~16~~18 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Four Representatives and ~~three~~four public members appointed by the Speaker of the House of Representatives.
- (3) Four Senators and ~~three~~four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State."

SECTION 26.2.(b) Section 27.6(c) of S.L. 2001-424 reads as rewritten:

"SECTION 27.6.(c) Duties of the Study Committee. – The Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.
- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.

- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (6) The feasibility of altering the funding allocation structure of the Highway Trust Fund, including the possible use of the Highway Trust Fund to provide the State match for available federal aid highway funds as long as using the funds in this manner does not delay projects already funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (7) Any other issue related to the Highway Trust Fund or transportation funding."

SECTION 26.2.(c) Section 27.6(k) of S.L. 2001-424 reads as rewritten:

"SECTION 27.6.(k) Report. – The report of the study shall be made to the Joint Legislative Transportation Oversight Committee no later than ~~April 1, 2002~~ the first day of the 2003 Session of the General Assembly. Upon the filing of its final report, the Study Committee shall terminate."

Requested by: Senators Gulley, Metcalf, Carter, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

BILTMORE AVENUE AIRSPACE ENCROACHMENT

SECTION 26.3. The Department of Transportation shall permit private use of and encroachment upon the airspace above Biltmore Avenue located inside the corporate limits of the City of Asheville for the purpose of construction and maintenance of a pedestrian bridge to connect the campuses of Mission St. Joseph's Health System unless, in the opinion of the Department, the bridge will unreasonably interfere with and impair the property rights and easement of abutting owner or unreasonably interfere with or obstruct the public use of Biltmore Avenue.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

CASH MANAGEMENT PROGRAM MODIFICATION

SECTION 26.4.(a) G.S. 136-176(a1) reads as rewritten:

"(a1) The Department ~~may~~ shall use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, two hundred five million dollars (\$205,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) For primary route pavement preservation. – One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation.

- (2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy-five million dollars (\$75,000,000) in fiscal year 2003-2004."

SECTION 26.4.(b) G.S. 136-176(a2) is repealed.

SECTION 26.4.(c) The Department of Transportation is encouraged to use all existing resources including bonded indebtedness to mitigate any delays in the construction of Transportation Improvement Program projects.

Requested by: Senators Rand, Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

DIVISION OF MOTOR VEHICLES PRINTING EFFICIENCY

SECTION 26.5. The Department of Transportation is directed to implement a more cost-effective method of providing printing services for the Division of Motor Vehicles.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY MULTIYEAR REGISTRATIONS AND LENGTHENING MULTIYEAR DRIVERS LICENSES

SECTION 26.7. The Joint Legislative Transportation Oversight Committee shall study the feasibility of multiyear motor vehicle registrations and lengthening multiyear drivers licenses.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bonner, Sutton, Easterling, Oldham, Redwine

COMMERCIAL DRIVER LICENSE TRAINING STANDARDS

SECTION 26.8. By January 1, 2003, the Division of Motor Vehicles shall issue rules authorizing certified Commercial Truck Driver Training Schools to offer an 80-hour curriculum appropriate to prepare a student to meet the requirements for a Class B Commercial Drivers License. These rules shall be consistent with existing rules governing Commercial Truck Driver Training Schools as provided for in G.S. 20-320 through G.S. 20-328 and applicable administrative code sections, except for the hours of instruction required.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

SMALL URBAN AND CONTINGENCY FUNDS

SECTION 26.9.(a) Section 27.3 of S.L. 2001-424 reads as rewritten:

"SECTION 27.3. Of the funds appropriated in this act to the Department of Transportation:

- (1) Fourteen million dollars (\$14,000,000) shall be allocated in fiscal year 2001-2002 and twenty-one million dollars (\$21,000,000) shall be allocated in each fiscal year 2002-2003 for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small construction projects that are located

within the area covered by a ~~one-mile~~ two-mile radius of the municipal corporate limits.

- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2001-2002 and ~~ten million dollars (\$10,000,000)~~ fifteen million dollars (\$15,000,000) in fiscal year 2002-2003 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division."

SECTION 26.9.(b) G.S. 136-176(a1) reads as rewritten:

"(a1) The Department may use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, ~~two hundred five million dollars (\$205,000,000)~~ two hundred twelve million dollars (\$212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) For primary route pavement preservation. – One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation.
- (2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy-five million dollars (\$75,000,000) in fiscal year 2003-2004.
- (5) For small urban construction projects. – Seven million dollars (\$7,000,000) in fiscal year 2002-2003."

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

URBAN LOOP TERMINI

SECTION 26.10.(a) G.S. 136-180 reads as rewritten:

"§ 136-180. (For contingent repeal see editor's note) Urban loops.

(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
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Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	Multilane facility on new location from I-85 west of Durham to US-70 east of Durham <u>The corridor shall be identified as a part of the local long-range transportation plan as mutually adopted in 2003 by the Durham-Chapel Hill-Carrboro metropolitan planning organization and the North Carolina Board of Transportation</u>	Durham, Orange
Greensboro Loop	Multilane facility on new location encircling City of Greensboro	Guilford
Raleigh Outer Loop	Multilane facility on new location from US-1 southwest of Cary northerly to US-64 in eastern Wake County	Wake
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to US-17 southwest of Wilmington <u>Wilmington, including the Blue Clay Road interchange</u>	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to I-40 in eastern Forsyth County	Forsyth

(b) The Board of Transportation may, by official resolution, accept a new interstate or freeway as the revised termini of an urban loop described in subsection (a) of this section, and the revised project shall be eligible for funding with funds described in G.S. 136-176(b)(2) if the following conditions are met:

- (1) The Department of Transportation has constructed a new interstate or freeway facility since 1989 and has changed the official route designation from the termini described in subsection (a) of this section to the new facility.

- (2) The Board of Transportation finds that the purposes of the urban loop facility, specifically including reduced congestion and high-speed, safe, regional through-travel service, would be enhanced by the action."

SECTION 26.10.(b) G.S. 136-180.1 is repealed.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives J. Crawford, Easterling, Oldham, Redwine

SCHOOL-SPONSORED BUS TRANSPORTATION SAFETY STUDY

SECTION 26.11. The Division of Motor Vehicles, in consultation with the Department of Public Instruction, the private motor coach industry, and other interested parties, shall study the issue of school-sponsored bus transportation safety. As a part of its study, the Division is directed to study all of the following:

- (1) The feasibility of increased centralized inspection of all companies that offer motor coach services to schools and the anticipated cost of increased inspection.
- (2) Appropriate use of school activity buses.
- (3) Providing training and guidance to schools about school-sponsored bus transportation safety.

The Division shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Education Oversight Committee by March 1, 2003.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

CURRITUCK COUNTY TO NORTHERN OUTER BANKS FERRY STUDY

SECTION 26.12. The Department of Transportation shall study and determine the feasibility of establishing ferry service from Currituck County to the northern Outer Banks. The Department of Transportation shall report the results of the study to the General Assembly on or before June 1, 2003.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

DEPARTMENT OF TRANSPORTATION MAY USE RECEIPTS FOR FACILITIES IMPROVEMENTS

SECTION 26.13. The Secretary of Transportation may approve the use of receipts from the sale of Department of Transportation real property, other than right-of-way property, to make needed improvements to its facilities. Prior to the sale of the real property and the use of the funds for improvements to facilities, the Secretary shall report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on the planned implementation of this section.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

PAYBACK SCHEDULE FOR TRANSFER IN EXCESS OF THAT AUTHORIZED BY THE GENERAL STATUTES FROM THE HIGHWAY TRUST FUND TO THE GENERAL FUND

SECTION 26.14. Any funds transferred from the Highway Trust Fund to the General Fund in addition to the transfer authorized by G.S. 105-187.9(b) shall be fully repaid to the Highway Trust Fund in five years beginning in the 2004-2005 fiscal year, using the sum of the digits formula, according to the following repayment schedule: FY 2004-2005 – 7%, FY 2005-2006 – 13%, FY 2006-2007 – 20%, FY 2007-2008 – 27%, and FY 2008-2009 – 33%. The repayment shall include interest at the net rate of return generated by the State Treasurer's Short Term Investment Fund.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Sutton, Easterling, Oldham, Redwine

COMMISSION TO STUDY COMMISSION CONTRACTS FOR THE ISSUANCE OF MOTOR VEHICLE REGISTRATION PLATES AND CERTIFICATES

SECTION 26.15.(a) The Commission to Study Commission Contracts for the Issuance of Motor Vehicle Registration Plates and Certificates is created. The Commission shall consist of 11 members:

- (1) Four Senators appointed by the President Pro Tempore of the Senate and four Representatives appointed by the Speaker of the House of Representatives.
- (2) The President Pro Tempore of the Senate shall appoint one member of a board of county commissioners from a list of three candidates submitted by the North Carolina Association of County Commissioners, and the Speaker of the House of Representatives shall appoint one person currently contracted with the Division of Motor Vehicles to issue registration plates and certificates.
- (3) The Commissioner of Motor Vehicles or the Commissioner's designee shall serve as a voting member of the Commission.

SECTION 26.15.(b) The President Pro Tempore of the Senate shall designate one Senator as cochair, and the Speaker of the House of Representatives shall designate one Representative as cochair.

SECTION 26.15.(c) The Commission shall:

- (1) Review the history and policies that led to the enactment of G.S. 20-63(h) providing for contracts for the issuance of registration plates and certificates.
- (2) Study the current implementation and consequences of the provisions of G.S. 20-63(h).
- (3) Study how registration plates and certificates are issued in other states.
- (4) Study the implications and potential effects on the contract agents of the authority of the Division of Motor Vehicles to use electronic applications and collections authorized in G.S. 20-63(i).
- (5) Study any other factors it deems relevant related to the use of contract agents for the issuance of registration plates and certificates.
- (6) Make findings and recommendations on improving the services related to the issuance of registration plates and certificates to the citizens of North Carolina while reducing the costs to the State.

SECTION 26.15.(d) The Commission shall submit a final report of its findings and recommendations on or before the first day of the 2003 Session of the General Assembly by filing a report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Commission shall terminate.

SECTION 26.15.(e) The Commission, while in the discharge of its official duties, may exercise all the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the call of the cochairs. The Commission may meet in the State Legislative Building or the Legislative Office Building.

SECTION 26.15.(f) Legislative members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1. Nonlegislative members shall receive subsistence and travel expenses at the rates set forth in G.S. 138-5.

SECTION 26.15.(g) The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to

assist in the work of the Commission. 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 expenses relating to clerical employees shall be borne by the Commission.

SECTION 26.15.(h) If a vacancy occurs in the membership of the Commission, the vacancy shall be filled by the same appointing officer who made the initial appointment.

SECTION 26.15.(i) All State departments and agencies and local governments and their subdivisions shall furnish to the Commission, upon request, any information in their possession or available to them.

SECTION 26.15.(j) The Division of Motor Vehicles, in consultation and cooperation with the Commission contract agents, shall conduct a comprehensive and updated productivity study of all transactions and other activity in contract agencies. The Division, in consultation and cooperation with the agents, shall use this data to develop a detailed proposal for compensating agents based on the tasks they undertake. The proposal shall include a mechanism to adjust the schedule periodically to account for inflation. The Division shall submit its proposal to the Commission on or before November 1, 2002.

SECTION 26.15.(k) From funds available to the Department of Transportation in this act, the sum of twenty-five thousand dollars (\$25,000) shall be transferred to the General Assembly for the 2002-2003 fiscal year for the expenses of the Commission.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

TRANSPORTATION OF WOOD CHIPS AND OTHER WOOD PRODUCTS

SECTION 26.16.(a) G.S. 20-118(c) is amended by adding a new subdivision to read:

"(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

(15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark.
- b. Does not operate on an interstate highway, a posted light-traffic road, or a posted bridge.
- c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
- d. Does not exceed a single-axle weight of more than 22,000 pounds and a tandem-axle weight of more than 42,000 pounds."

SECTION 26.16.(b) The Joint Legislative Transportation Oversight Committee shall study the rationale for and effect of the exceptions to the highway weight limitations contained in G.S. 20-118(c).

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Easterling, Oldham, Redwine

LAW ENFORCEMENT ESCORT FEE

SECTION 26.17.(a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-196.4. Oversized and hazardous shipment escort fee.

(a) Every person, firm, corporation, or entity required by the North Carolina Department of Transportation or any federal agency or commission to have a law enforcement escort provided by the State Highway Patrol for the transport of any

oversized load or hazardous shipment by road or rail shall pay to the Department of Crime Control and Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(b) If the State Highway Patrol provides an escort to accompany the transport of oversized loads or hazardous shipments by road or rail at the request of any person, firm, corporation, or entity that is not required to have a law enforcement escort pursuant to subsection (a) of this section, then the requester shall pay to the Department of Crime Control and Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(c) The Department of Crime Control and Public Safety shall comply with the provisions of G.S. 12-3.1(a)(2) when establishing fees to implement this section.

(d) All fees collected pursuant to this section shall be placed in a special Escort Fee Account and shall remain unencumbered and unexpended until appropriated by the General Assembly.

(e) The Department shall report quarterly on the funds in the special account to the Chairs of the Joint Legislative Transportation Oversight Committee, to the Chairs of the House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Subcommittee on Department of Transportation, and to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety."

SECTION 26.17.(b) This section becomes effective November 1, 2002.

Requested by: Senators Rand, Plyler, Odom, Lee; Representatives Nye, Easterling, Oldham, Redwine

NONBETTERMENT RELOCATION COST FOR COUNTY OWNED GAS LINE

SECTION 26.18.(a) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-27.2. Relocation of county-owned natural gas lines located on Department of Transportation right-of-way.

The Department of Transportation shall pay the nonbetterment cost for the relocation of county-owned natural gas lines, located within the existing State highway right-of-way, that the Department needs to relocate due to a State highway improvement project."

SECTION 26.18.(b) The Department of Transportation is directed to use monies appropriated to the Department to relocate county-owned natural gas lines located on Department of Transportation right-of-way.

PART XXVII. INFORMATION TECHNOLOGY

Requested by: Senators Plyler, Odom, Lee, Reeves; Representatives Tolson, Tucker, Easterling, Oldham, Redwine

ELECTRONIC PROCUREMENT AND INFORMATION TECHNOLOGY PROCUREMENT STUDY

SECTION 27.1.(a) G.S. 143-48.3(a) reads as rewritten:

"(a) The Department of Administration ~~and the~~ shall develop and maintain electronic or digital standards for procurement. The Department of Administration shall consult with the Office of the State Controller, ~~in conjunction with~~ the Office of Information Technology Services (ITS), the Department of State Auditor, the Department of State Treasurer, The University of North Carolina General Administration, the Community Colleges System Office, and the Department of Public Instruction shall collaborate to develop electronic or digital procurement standards.Instruction."

SECTION 27.1.(b) G.S. 143-48.3(c) reads as rewritten:

"(c) The Department of Administration shall utilize the Office of Information Technology Services ~~shall act as~~ an Application Service Provider for an electronic

~~procurement system and shall establish, manage, and system. The Office of Information Technology Services shall operate this electronic procurement system, through State ownership or commercial leasing, in accordance with the requirements and operating standards developed by the Department of Administration, the Office of the State Controller, and ITS Administration and the financial reporting and accounting procedures of the Office of the State Controller."~~

SECTION 27.1.(c) G.S. 143-48.3 is amended by adding a new subsection to read:

"(a1) The Department of Administration shall comply with the State government-wide technical architecture for information technology, as required by the Information Resources Management Commission."

SECTION 27.1.(d) The Joint Select Committee on Information Technology shall study and evaluate the procurement of information technology in the State. The Committee shall consider the governance of information technology procurement and associated costs, the use of appropriate procurement methodology, how to maximize the efficiency of the State's procurement process as it relates to information technology procurement, and the enterprise management of the State's information technology assets. The Office of State Budget and Management, the Department of Administration, and the Office of Information Technology Services shall provide information and data analysis for the purposes of the study. The Committee may solicit information and analysis from any other resources, as needed. The Committee shall report its findings and recommendations to the Chairs of the House of Representatives Appropriations Subcommittee on Information Technology and Senate Appropriations Committee on Information Technology by February 15, 2003.

Requested by: Senators Reeves, Plyler, Odom, Lee; Representatives Tolson, Tucker, Easterling, Oldham, Redwine

INFORMATION TECHNOLOGY SECURITY PRACTICES/STATE AUDITOR

SECTION 27.2.(a) G.S. 147-33.82(d) is amended by adding a new subdivision to read:

"(3) Before a State agency may enter into any contract with another party for an assessment of network vulnerability, including network penetration or any similar procedure, the State agency shall notify the State Chief Information Officer and obtain approval of the request. The State Chief Information Officer shall refer the request to the State Auditor for a determination of whether the Auditor's office can perform the assessment and testing. If the State Auditor determines that he can perform the assessment and testing, then the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If the State Auditor determines that his office cannot perform the assessment and testing, then with the approval of the State Chief Information Officer and State Auditor, the State agency may enter into a contract with another party for the assessment and testing. If the State agency enters into a contract with another party for assessment and testing, the State agency shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision, but the contractor must provide the State agency with detailed reports of the security issues identified pursuant to this subdivision that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer and the State Auditor with copies of the detailed reports."

SECTION 27.2.(b) G.S. 147-64.6(c)(18) reads as rewritten:

"(18) The Auditor shall, after consultation and in coordination with the State Chief Information Officer, assess, confirm, and report on the security practices of information technology systems. If an agency has adopted

standards pursuant to G.S. 147-33.82(d)(1) or (2), the audit shall be in accordance with those standards. The Auditor's assessment of information security practices shall include an assessment of network vulnerability. The Auditor may conduct network penetration or any similar procedure as the Auditor may deem necessary. The Auditor may enter into a contract with a State agency under G.S. 147-33.82(d)(3) for an assessment of network vulnerability, including network penetration or any similar procedure. Any contract with the Auditor for the assessment and testing shall be on a cost-reimbursement basis. The Auditor may investigate reported information technology security breaches, cyber attacks, and cyber fraud in State government. The Auditor shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision but may provide agencies with detailed reports of the security issues identified pursuant to this subdivision which shall not be disclosed as provided in G.S. 132-6.1(c). For the purposes of this subdivision only, the Auditor is exempt from the provisions of Article 3 of Chapter 143 of the General Statutes in retaining contractors."

SECTION 27.2.(c) This section becomes effective November 1, 2002.

Requested by: Senators Reeves, Plyler, Odom, Lee; Representatives Tolson, Tucker, Easterling, Oldham, Redwine

OFFICE OF ADMINISTRATIVE HEARINGS/AUTOMATION REVIEW

SECTION 27.3. By February 15, 2003, the Office of Administrative Hearings, in consultation with the Office of Information Technology Services, shall report to the Chairs of the Joint Select Committee on Information Technology, to the Chairs of the Joint Legislative Administrative Procedure Oversight Committee, and to the Fiscal Research Division on the cost and feasibility of developing or acquiring an enterprise-wide automated system for the rule-making process. The report shall include an estimate, based on an agency survey, of the costs incurred by State agencies in the current rule-making process. The Office of Administrative Hearings shall contact the rule-making agencies in other states to determine best practices in automating this process, and may present options for automating the State's rule-making process, including costs. The Office of Information Technology Services shall assist in the survey process on technical issues.

Requested by: Senators Reeves, Plyler, Odom, Lee; Representatives Tolson, Tucker, Easterling, Oldham, Redwine

HIPAA IMPLEMENTATION

SECTION 27.4.(a) The Governor or the Governor's designee shall coordinate the State's implementation of the federal Health Insurance Portability and Accountability Act ("HIPAA"), Title II Subtitle F (Administrative Simplification). Specifically, the scope of coordination shall include the following:

- (1) Coordinating correspondence between the State and the United States government on all matters relating to HIPAA Administrative Simplification requirements under Subtitle F of Title II of HIPAA.
- (2) Coordinating official State comments on proposed federal regulations and the federal rule-making process pertaining to HIPAA Administrative Simplification.
- (3) Obtaining from the North Carolina Attorney General legal interpretations of federal rules pertaining to HIPAA Administrative Simplification compliance, implementation, and enforcement.
- (4) Establishing deadlines and benchmarks for State agencies to provide the necessary data required to monitor compliance with HIPAA Administrative Simplification requirements.

The Information Resource Management Commission ("IRMC") shall cooperate with the Governor to ensure that IRMC policies and activities and State HIPAA implementation are complementary to ensure effective and efficient monitoring of HIPAA Administrative Simplification requirements.

SECTION 27.4.(b) The University of North Carolina System and the Teachers' and State Employees' Comprehensive Major Medical Plan may develop and implement HIPAA Administrative Simplification compliance and shall report bimonthly to the Governor on the status of implementation.

SECTION 27.4.(c) Funds appropriated to the Reserve for Health Insurance Portability and Accountability Compliance that are unexpended and unencumbered at the end of the fiscal year shall not revert to the General Fund but shall remain in the Reserve for use in accordance with the purposes of the Reserve.

Requested by: Senators Reeves, Plyler, Odom, Lee; Representatives Tolson, Tucker, Easterling, Oldham, Redwine

STATE HUMAN RESOURCE AND RETIREMENT SYSTEMS INFORMATION TECHNOLOGY LRC STUDY

SECTION 27.5.(a) The Legislative Research Commission shall:

- (1) Examine how information technology is used in the administration of the State's human resource systems, including personnel, benefits, leave reporting, and payroll.
- (2) Consider how information technology solutions can streamline human resource management processes and eliminate unnecessary or duplicative paperwork.
- (3) Review how an enterprise approach will improve the effectiveness and efficiency of the State's human resource management system and the State's administration of retirement and employee benefits. In making this inquiry, the Commission shall take into account and coordinate efforts with the State Business Infrastructure Study authorized by Section 17.1 of S.L. 2001-491, without duplicating the work of that study.
- (4) Review any other matter that relates to the State's use of information technology for personnel, retirement, and benefits administration.

SECTION 27.5.(b) The Legislative Research Commission shall report its findings to the 2003 Regular Session of the General Assembly, along with any legislative recommendations.

PART XXVIII. SALARIES AND EMPLOYEE BENEFITS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Baddour

SPECIAL ANNUAL LEAVE BONUS/COMMUNITY COLLEGE SALARIES

SECTION 28.3A. Any person who is a full-time permanent employee on September 30, 2002, of (i) a local board of education, except for an employee who receives a salary increment pursuant to Section 7.1, 7.2, or 7.45 of this act, or (ii) the State, who is eligible for annual leave shall have a one-time additional 10 days of annual leave credited on that date. That leave shall be accounted for separately, and shall remain available until used, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. Part-time permanent employees and 9- or 10-month employees shall receive a pro rata amount of the 10 days.

The General Assembly encourages the State Board of Community Colleges to adopt rules authorizing the colleges to provide special annual leave bonuses, compensation bonuses, or other employee benefits to their employees. Included within this may be salary increases within available funds to employees not receiving special annual leave bonuses.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

ADDITIONAL FAMILY AND MEDICAL LEAVE

SECTION 28.3B. A State employee is entitled to take up to 52 weeks of leave without pay during a five-year period in order to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition. For State employees subject to the State Personnel Act, this leave shall be administered under the Family and Medical Leave procedures of the State Personnel Commission. Benefits under this section for employees not subject to the State Personnel Act shall be administered under the Family and Medical Leave procedures applicable to those employees. Benefits under this section are supplemental to any benefit to which an employee may otherwise be entitled.

Requested by: Senators Plyler, Lee; Representatives Easterling, Oldham, Redwine

DHHS EXEMPT POLICYMAKING POSITIONS

SECTION 28.4. G.S. 126-5(d)(1) reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – The Governor may designate a total of 100 exempt policymaking positions throughout the following departments:
- a. Department of Administration;
 - b. Department of Commerce;
 - c. Department of Correction;
 - d. Department of Crime Control and Public Safety;
 - e. Department of Cultural Resources;
 - f. Department of Health and Human Services;
 - g. Department of Environment and Natural Resources;
 - h. Department of Revenue;
 - i. Department of Transportation; and
 - j. Department of Juvenile Justice and Delinquency Prevention.

The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policymaking positions at the Department of Health and Human Services, but at no time shall the total number of exempt policymaking positions exceed 105. The Governor shall notify the General Assembly and the State Personnel Director of the additional positions designated hereunder."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

SECTION 28.5. Section 32.21(b) of S.L. 2001-424 reads as rewritten:

"SECTION 32.21.(b) The State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for ~~the 2001-2002 fiscal year and the 2002-2003 fiscal year~~ are (i) ~~five percent (5.00%)~~ three and three one-hundredths percent (3.03%) – Teachers and State Employees; (ii) ~~ten percent (10.00%)~~ eight and three one-hundredths percent (8.03%) – State Law Enforcement Officers; (iii) nine and seventy-one hundredths percent (9.71%) – University Employees' Optional Retirement System; (iv) nine and seventy-one hundredths percent (9.71%) – Community College Optional Retirement Program; (v) ~~sixteen and forty hundredths percent (16.40%)~~ fourteen and twenty-seven hundredths percent (14.27%) –

Consolidated Judicial Retirement System; and (vi) ~~twenty five and fifty five hundredths percent (25.55%)~~ two and thirty-five hundredths percent (2.35%) – Legislative Retirement System. Each of the foregoing contribution rates includes two and thirty-five hundredths percent (2.35%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

Requested by: Senators Rand, Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

PUBLIC EMPLOYEE SPECIAL PAY PLAN

SECTION 28.6.(a) Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 29. Board of Trustees of the North Carolina
Public Employee Special Pay Plan.

"§ 143B-426.41. Board of Trustees of the North Carolina Public Employee Special Pay Plan.

(a) The Governor shall, by Executive Order, establish a Board of Trustees of the North Carolina Public Employee Special Pay Plan, which when established shall be constituted as an agency of the State of North Carolina within the Department of Administration. The Board shall adopt and implement an Internal Revenue Service approved Special Pay Plan for State employees, which shall enhance, and not diminish, existing Special Pay benefits. A Special Pay Plan is a qualified retirement plan under section 401(a) of the Internal Revenue Code, which is approved by the Internal Revenue Service, that reduces the federal tax burden on special compensation payments made on behalf of State employees which if paid directly to a State employee would be compensation income within the meaning of the Internal Revenue Code.

(b) The Board shall consist of seven voting members, as follows:

- (1) The State Personnel Director.
- (2) The State Budget Officer, who shall serve as chair.
- (3) The State Treasurer.
- (4) A State employee who has knowledge of benefits and benefit administration appointed by the Governor.
- (5) An employee of a public school system administrative unit who is knowledgeable about payroll and benefit matters, appointed by the Governor.
- (6) An employee of The University of North Carolina System who is knowledgeable about payroll and benefit matters, appointed by the Governor.
- (7) An employee of the Community College System who is knowledgeable about payroll and benefit matters, appointed by the Governor.

Any member may designate in writing, filed with the Board, any employee of his department to act at any meeting of the Board from which the member is absent, to the same extent that the member could act if present at that meeting. The initial term of the member appointed pursuant to subdivisions (4) and (5) of this subsection shall end July 1, 2004, and, thereafter, the member shall serve terms of four years. The initial term of the member appointed pursuant to subdivisions (6) and (7) of this subsection shall end July 1, 2006, and, thereafter, the member shall serve terms of four years.

(c) The Board may delegate the performance of its administrative duties as it deems appropriate, including coordination and administration of the Plan. Prior to contracting for such services, the Board shall seek written proposals.

(d) The Plan shall be limited to employees age 55 or older whose Special Pay totals five thousand dollars (\$5,000) or more per year. The Board may designate appropriate investment vehicles, trust services, and administrative services from any company duly authorized to conduct business in this State. Prior to contracting for any such services, the Board shall seek written proposals. The Board may establish, alter, amend, and modify the Special Pay Plan, to the extent it deems necessary or desirable, for the purpose of facilitating the administration, investment, and maintenance of assets acquired by the investment of Special Pay Plan funds. The Board of Trustees, may, however, exclude any categories of compensation or set floors or ceilings in order to ameliorate any hardships or unintended consequences.

Prior to implementing a Special Pay Plan, the Board shall investigate participation options and weigh the advantages and disadvantages to both the State and State employees of various participation options available.

The Special Pay Plan approved by the Board shall include the following components:

- (1) The Plan shall require permanent savings for all State employees participating in the Special Pay Plan of no less than the lesser of seven and sixty-five hundredths percent (7.65%) or the FICA percentage applicable to all Special Pay subject to the Plan.
- (2) State employees who elect and are entitled to immediate distribution from the Plan shall be guaranteed payment of the entire amount of Special Pay, plus earnings, and less any mandatory income tax withholding in no more than seven days from the date payment is made to the Plan on behalf of the State employee.
- (3) The Plan shall phase in participation in the Special Pay Plan by State agencies as directed by the Board.

(e) A majority of the Board shall constitute a quorum for the transaction of business."

SECTION 28.6.(b) G.S. 135-1(7a) reads as rewritten:

"(7a) "Compensation" shall mean all salaries and wages prior to any reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457 of the Internal Revenue Code, not including any terminal payments for unused sick leave, derived from public funds which are earned by a member of the Retirement System for service as an employee or teacher in the unit of the Retirement System for which he is performing full-time work. "Compensation" shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. "Compensation" includes all special pay contribution of annual leave made to a 401(a) Special Pay Plan for the benefit of an employee."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

GENERAL ASSEMBLY TEMPORARY EMPLOYEES

SECTION 28.6A. The Legislative Services Commission ("Commission") shall review the General Assembly's utilization of temporary employees. The Commission shall complete the review by March 1, 2003, and shall make any appropriate policy changes or initiate necessary legislative proposals by June 30, 2003.

Requested by: Senators Plyler, Odom, Lee, Harris, Warren, Kerr; Representatives Baddour, Barefoot, Cox, Easterling, Oldham, Redwine

INCREASE FIRE AND RESCUE PENSION BENEFITS

SECTION 28.7. 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 fifty one dollars (\$151.00)~~ one hundred fifty-six dollars (\$156.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2000, July 1, 2002,~~ receive a pension of ~~one hundred fifty one dollars (\$151.00)~~ one hundred fifty-six dollars (\$156.00) 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 fifty one dollars (\$151.00)~~ one hundred fifty-six dollars (\$156.00) 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."

Requested by: Senators Plyler, Odom, Lee; Representatives Barefoot, Cox, Easterling, Oldham, Redwine

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE

CONSOLIDATED JUDICIAL RETIREMENT SYSTEM AND THE LEGISLATIVE RETIREMENT SYSTEM.

SECTION 28.8.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(jjj) From and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2001, shall be increased by one and four-tenths percent (1.4%) of the allowance payable on June 1, 2002, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2001, but before June 30, 2002, shall be increased by a prorated amount of one and four-tenths percent (1.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2001, and June 30, 2002."

SECTION 28.8.(b) G.S. 128-27 is amended by adding a new subsection to read:

"(bbb) From and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2001, shall be increased by one and four-tenths percent (1.4%) of the allowance payable on June 1, 2002, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2001, but before June 30, 2002, shall be increased by a prorated amount of one and four-tenths percent (1.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2001, and June 30, 2002."

SECTION 28.8.(c) G.S. 135-65 is amended by adding a new subsection to read:

"(w) From and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2001, shall be increased by one and four-tenths percent (1.4%) of the allowance payable on June 1, 2002. Furthermore, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2001, but before June 30, 2002, shall be increased by a prorated amount of one and four-tenths percent (1.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2001, and June 30, 2002."

SECTION 28.8.(d) G.S. 120-4.22A is amended by adding a new subsection to read:

"(q) In accordance with subsection (a) of this section, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2002, shall be increased by one and four-tenths percent (1.4%) of the allowance payable on June 1, 2002. Furthermore, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2002, but before June 30, 2002, shall be increased by a prorated amount of one and four-tenths percent (1.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2002, and June 30, 2002."

Requested by: Senators Plyler, Odom, Lee, Harris; Representatives Easterling, Oldham, Redwine, Barefoot, Cox

ENHANCE BENEFITS PAYABLE FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 28.9.(a) G.S. 135-5(b18) reads as rewritten:

"(b18) Service Retirement Allowance of Members Retiring on or After July 1, 2000-2000, but Before July 1, 2002. – Upon retirement from service in accordance with

subsection (a) or (a1) above, on or after July 1, 2000, but before July 1, 2002, a member shall receive the following service retirement allowance.

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 1. The service retirement allowance payable under G.S. 135-5(b18)(1)a. reduced by one-third of one percent ($\frac{1}{3}$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
 2. The service retirement allowance as computed under G.S. 135-5(b18)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of creditable service.
 - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b18)(2)a. but shall be reduced by one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
 - c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. but reduced by the sum of five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for each month by which his retirement date precedes the

- first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
2. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b18)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

SECTION 28.9.(b) G.S. 135-5 is amended by adding a new subsection to

read:

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and

eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b19)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

SECTION 28.9.(c) G.S. 135-5 is amended by adding a new subsection to read:

"(kkk) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2002. – From and after July 1, 2002, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2002, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 2002. This allowance shall be calculated on the allowance payable and in effect on June 30, 2002, so as not to be compounded on any other increase granted by act of the 2002 Regular Session of the 2001 General Assembly."

SECTION 28.9.(d) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service

- retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 135-5(b18)(1)b. or G.S. 135-5(b18)(2)c.,~~ G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the requirement of obtaining age 50.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered 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 last day of actual service shall be determined as provided in subsection (1) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter."

SECTION 28.9.(e) G.S. 128-27(b19) reads as rewritten:

"(b19) Service Retirement Allowance of Member Retiring on or After July 1, ~~2001~~, 2001, But Before July 1, 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2001, but before July 1, 2002, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 - 1. The service retirement allowance payable under G.S. 128-27(b19)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;
 - 2. The service retirement allowance as computed under G.S. 128-27(b19)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of average final compensation, multiplied by the number of years of creditable service.
- b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b19)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 128-27(b19)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
 2. The service retirement allowance as computed under G.S. 128-27(b19)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b19)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

SECTION 28.9(f) G.S. 128-27 is amended by adding a new subsection to

read:

"(b20) Service Retirement Allowance of Member Retiring on or After July 1, 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final

- compensation, multiplied by the number of years of his creditable service.
- b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
1. The service retirement allowance payable under G.S. 128-27(b20)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;
 2. The service retirement allowance as computed under G.S. 128-27(b20)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of average final compensation, multiplied by the number of years of creditable service.
 - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b20)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
 - c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 128-27(b20)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
 2. The service retirement allowance as computed under G.S. 128-27(b20)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b20)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

SECTION 28.9.(g) G.S. 128-27 is amended by adding a new subsection to read:

"(ccc) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2002. – From and after July 1, 2002, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2002, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 2002. This allowance shall be calculated on the allowance payable and in effect on June 30, 2002, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 2002 Regular Session of the 2001 General Assembly."

SECTION 28.9.(h) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b19)(1)b. or G.S. 128-27(b19)(2)e.,~~ G.S. 128-27(b20)(1)b. or G.S. 128-27(b20)(2)c., notwithstanding the requirement of obtaining age 50.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered 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 last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

SECTION 28.9.(i) This section becomes effective July 1, 2002.

Requested by: Senators Plyler, Odom, Lee; Representatives Baddour, Easterling, Oldham, Redwine

RETIRED TEACHERS RETURNING TO THE CLASSROOM WITHOUT LOSS OF RETIREMENT BENEFITS/OPTION EXTENDED

SECTION 28.10.(a) Subsection (d) of Section 28.24 of S.L. 1998-212 reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires ~~June 30, 2003.~~ June 30, 2004."

SECTION 28.10.(a1) The State Treasurer shall seek a private letter ruling from the Internal Revenue Service that G.S. 135-3(8)c. could be amended from six months to two months without adverse affect on the tax qualification of the Teachers' and State Employees' Retirement System.

SECTION 28.10.(b) The catch line to Section 67 of S.L. 1998-217 reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through ~~June 30, 2003, June 30, 2004,~~ G.S. 135-3(8)c., as rewritten by Section 28.24(a) of ~~Senate Bill 1366 of the 1997 General Assembly, as enacted, S.L. 1998-212~~ reads as rewritten:"

SECTION 28.10.(c) Subsection (b) of Section 67.1 of S.L. 1998-217 reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires ~~June 30, 2003, June 30, 2004.~~"

SECTION 28.10.(d) Subsection (c) of Section 32.25 of S.L. 2001-424 reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires ~~June 30, 2003, June 30, 2004.~~"

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

CONFORM TREATMENT OF RETIRED LEGISLATIVE EMPLOYEES WHO RETURN TO EMPLOYMENT IN A FULL-TIME PERMANENT POSITION WITH THAT OF OTHER STATE EMPLOYEES

SECTION 28.12.(a) G.S. 135-1(10) reads as rewritten:

"(10) "Employee" shall mean all full-time employees, agents or officers of the State of North Carolina or any of its departments, bureaus and institutions other than educational, whether such employees are elected, appointed or employed: Provided that the term "employee" shall not include any person who is a member of the Consolidated Judicial Retirement System, any member of the General Assembly or any part-time or temporary employee. Notwithstanding any other provision of law, "employee" shall include all employees of the General Assembly except participants in the Legislative Intern Program, pages, and ~~reemployed~~ beneficiaries in receipt of a monthly retirement allowance under this ~~Chapter. Chapter who are reemployed on a temporary basis.~~ In all cases of doubt, the Board of Trustees shall determine whether any person is an employee as defined in this Chapter. "Employee shall also mean every full-time civilian employee of the army national guard and air national guard of this State who is employed pursuant to section 709 of Title 32 of the United States Code and paid from federal appropriated funds, but held by the federal authorities not to be a federal employee: Provided, however, that the authority or agency paying the salaries of such employees shall deduct or cause to be deducted from each employee's salary the employee's contribution in accordance with applicable provisions of G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement System; coverage of employees described in this sentence shall commence upon the first day of the calendar year or fiscal year, whichever is earlier, next following the date of execution of an agreement between the Secretary of Defense of the United States and the Adjutant General of the State acting for the Governor in behalf of the State, but no credit shall be allowed pursuant to this sentence for any service previously rendered in the above-described capacity as a civilian employee of the national guard: Provided, further, that the Adjutant General, in his discretion, may terminate the Retirement

System coverage of the above- described national guard employees if a federal retirement system is established for such employees and the Adjutant General elects to secure coverage of such employees under such federal retirement system. Any full-time civilian employee of the national guard described above who is now or hereafter may become a member of the Retirement System may secure Retirement System credit for such service as a national guard civilian employee for the period preceding the time when such employees became eligible for Retirement System coverage by paying to the Retirement System an amount equal to that which would have constituted employee contributions if he had been a member during the years of ineligibility, plus interest. Employees of State agencies, departments, institutions, boards, and commissions who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "employee" solely because the person holds a temporary or time-limited visa."

SECTION 28.12.(b) This section is effective when it becomes law, provided any person who has been reemployed by the General Assembly on a permanent full-time basis prior to the effective date of this section may purchase credit for that service by returning any retirement allowance received as well as the employee contributions attributable to the service plus interest as determined by the Board of Trustees of the Retirement System. In addition, the employer must pay the employer contributions attributable to the service.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

MODIFY BENEFIT RESTRICTIONS FOR REEMPLOYED RETIREES IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 28.13.(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 during the 12-month period immediately following the effective date of retirement or 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 six months and has not been employed in any capacity, except as a substitute teacher or a part-time tutor, with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public school. 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 retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

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."

SECTION 28.13.(b) G.S. 128-24(5)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or 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%)."

SECTION 28.13.(c) Subsections (a) and (b) of this section do not apply during the 2002-2003 fiscal year to any person who was retired on or before September 1, 2002, and also had entered into any employment contract or commitment for some or all of that year.

SECTION 28.13.(d) The State Treasurer shall seek a private letter ruling from the Internal Revenue Service relating to what constitutes a "bona fide termination of employment" and the period of time that a member of the Teachers' and State Employees' Retirement System must be separated from service before they can be reemployed either on a full-time or contract basis while continuing to receive retirement benefits.

Requested by: Senators Rand, Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

EXPAND SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS

SECTION 28.14. G.S. 143-166.41(c) reads as rewritten:

"(c) Payment to a retired officer under the provisions of this section shall cease at

the first of:

- (1) ~~the~~ The death of the individual or on officer;
- (2) ~~the~~ The last day of the month in which ~~he~~ the officer attains 62 years of age or upon age; or
- (3) ~~the~~ The first day of reemployment by any State department, agency, or institution; institution, except that this subdivision does not apply to an officer returning to State employment in a position exempt from the State Personnel Act in an agency other than the agency from which that officer retired."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

EMPLOYEE HEALTH PLAN TRUSTEES

SECTION 28.16.(a) G.S. 135-39 reads as rewritten:

"§ 135-39. Board of Trustees established.

(a) There is hereby established the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan.

(a1) The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall consist of nine members.

(b) Three members shall be appointed by the Governor. Of the initial members, one shall serve a term to expire June 30, 1983, and two shall serve terms to expire June 30, 1984. Subsequent terms shall be for two years. Vacancies shall be filled by the Governor. ~~The member appointed by the Governor to serve a term beginning July 1, 1985, shall be an employee enrolled in the Plan. Any successor to such member shall also be an employee enrolled in the Plan.~~ Of the members appointed by the Governor, one shall be either:

- (1) An employee of a State department, agency, or institution;
- (2) A teacher employed by a North Carolina public school system;
- (3) A retired employee of a State department, agency, or institution; or
- (4) A retired teacher from a North Carolina public school system.

(c) Three members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Of the initial members, two shall serve terms expiring June 30, 1983, and one shall serve a term expiring June 30, 1984. Vacancies shall be filled in accordance with G.S. 120-122.

~~One of the members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives may be a retired employee enrolled in the Plan.~~

(d) Three members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Of the initial members, two shall serve terms expiring June 30, 1983, and one shall serve a term expiring June 30, 1984. Vacancies shall be filled in accordance with G.S. 120-122.

~~One of the members appointed by the General Assembly upon the recommendation of the President of the Senate for a term beginning July 1, 1985, shall be an employee enrolled in the Plan. Any successor to such member shall also be an employee enrolled in the Plan.~~

(d1) Repealed by Session Laws 1985, c. 732, s. 60.

(e) The Governor shall have the power to remove any member appointed by him under subsection (b). The General Assembly may remove any member appointed under subsections (c) or (d).

(f) The members of the Board of Trustees shall receive one hundred dollars (\$100.00) per day, except employees eligible to enroll in the Plan, whenever the full Board of Trustees holds a public session, and travel allowances under G.S. 138-6 when traveling to and from meetings of the Board of Trustees or hearings under G.S.

135-39.7, but shall not receive any subsistence allowance or per diem under G.S. 138-5, except when holding a meeting or hearing where this section does not provide for payment of one hundred dollars (\$100.00) per day.

~~(g) No State employee, member of the General Assembly, State officer, or anyone who is receiving benefits under the Plan or who is eligible to receive benefits under the Plan or who provides services, equipment or supplies under the Plan shall be eligible for membership on the Board of Trustees, except for the designated employees and retired employee appointed under subsections (b) through (d) of this section, provided that such designated persons may not serve on the executive committee.~~

(h) No member of the Board of Trustees may serve more than three consecutive two-year terms.

(i) Meetings of the Board of Trustees may be called by the Executive Administrator, the Chairman, or by any three members."

SECTION 28.16.(b) This section becomes effective October 1, 2002, and applies to appointments and reappointments made on and after that date. The remainder of this section becomes effective when this act becomes law.

Requested by: Senators Plyler, Odom, Lee; Representatives Wright, Nye, Easterling, Oldham, Redwine

STATE EMPLOYEE HEALTH PLAN COVERAGE FOR SERVICES OF CLINICAL PHARMACIST PRACTITIONERS

SECTION 28.17. G.S. 135-40.6 is amended by adding the following new subdivision to read:

- "(12) Coverage for services of Clinical Pharmacist Practitioners. – Notwithstanding any other provision of this section or the Plan, benefits shall be payable for services performed by a Clinical Pharmacist Practitioner subject to the following limitations:
- a. The service performed is within the Clinical Pharmacist Practitioner's limitations pursuant to G.S. 90-18.4.
 - b. The Plan currently provides reimbursement for identical services provided by other health care providers.
 - c. The reimbursement shall be at the discretion of the Executive Administrator regarding services covered and compensation.
 - d. The reimbursement is made to the Clinical Pharmacist Practitioner.
 - e. Nothing in this subdivision authorizes payment to more than one provider for the same service."

PART XXIX. CAPITAL APPROPRIATIONS

Requested by: Senators Plyler, Odom, Lee; Representatives Wright, Easterling, Oldham, Redwine

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 29.1. Appropriations are made from the General Fund of the State for the 2002-2003 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	2002-2003
Department of Environment and Natural Resources	31,158,000

Requested by: Senators Thomas, Robinson, Plyler, Odom, Lee; Representatives Wright, Easterling, Oldham, Redwine

WATER RESOURCES DEVELOPMENT PROJECTS/USE DREDGE SPOILS TO NOURISH BEACH

SECTION 29.2.(a) The General Assembly finds that North Carolina is the tenth largest exporting state in the nation and that water resources development projects are vital to the economy of the State. North Carolina State Ports facilities, notably those in Wilmington, provide gateways to the global marketplace for North Carolina's importers and exporters. The State's ports annually generate thousands of jobs and millions of dollars in State and local taxes.

The General Assembly further finds that the ports are also invaluable assets to the communities that each serves. For example, according to the North Carolina State Ports Authority, nearly seven billion dollars (\$7,000,000,000) worth of goods, or nineteen million dollars (\$19,000,000) a day, were handled at the Port of Wilmington in 1997. The harbor improvements in Wilmington, provided for in subsection (b) of this section, are projected to add thirty-four million dollars (\$34,000,000) in annual regional benefits.

The General Assembly also finds that particularly in times of heightened national and local security, the water resources projects provide strategic mobilization benefits to the Port of Wilmington and to the Military Ocean Terminal at Sunny Point.

SECTION 29.2.(b) 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 costs are as indicated:

Name of Project	2002-2003
(1) Wilmington Harbor Deepening	\$20,100,000
(2) Manteo (Shallowbag) Bay Channel Maintenance	3,100,000
(3) Wilmington Harbor Maintenance	500,000
(4) B. Everett Jordan Lake Water Supply	90,000
(5) John H. Kerr Reservoir Operations Evaluation	800,000
(6) Oregon Inlet Jetties	70,000
(7) Silver Lake Harbor Maintenance	600,000
(8) West Onslow Beach (Topsail Beach) Nourishment	203,000
(9) Wanchese Marsh Creation	180,000
(10) Bogue Banks Shore Protection Study	315,000
(11) Surf City/North Topsail Beach Protection Study	200,000
(12) Walter Slough Maintenance Dredging	58,000
(13) Currituck Sound Water Management Study	400,000
(14) Deep Creek (Yadkin County) Watershed Management	500,000
(15) State Local Projects	2,900,000
(16) Aquatic Weed Control, Lake Gaston and Statewide	300,000
(17) Swan Quarter (Hyde County) Flood Control Dikes	100,000
(18) North Topsail Beach Feasibility Study (nonfederal)	250,000
(19) Neuse River Basin Feasibility Study	100,000
(20) Edgewater Canal (Camden County) Drainage	25,000
(21) Emergency Flood Control Projects	187,000
(22) Projected Feasibility Studies	80,000
(23) Planning Assistance to Communities	<u>100,000</u>
TOTAL	\$31,158,000

SECTION 29.2.(c) Where the actual costs are different from the estimated costs under subsection (b) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (b) of this section are delayed and the budgeted State funds cannot be used during the 2002-2003 fiscal year,

or if the projects listed in subsection (b) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2002-2003.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2003-2004 fiscal year.

SECTION 29.2.(d) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects that receive funding.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 29.2.(e) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach nourishment projects for the 2002-2003 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

SECTION 29.2.(f) G.S. 113A-118.1 is amended by adding a new subsection to read:

(e) The Commission shall allow the use of riprap in the construction of groins in estuarine and public trust waters on the same basis as the Commission allows the use of wood."

SECTION 29.2.(g) The Coastal Resources Commission shall not enforce any provision of any rule that is inconsistent with G.S. 113A-118.1(e), as enacted by this act, and the Commission shall amend its rules as may be required to conform with G.S. 113A-118.1(e), as enacted by this act.

SECTION 29.2.(h) G.S. 113-229(h1) reads as rewritten:

"(h1) ~~All~~ Except as provided in subsection (h2) of this section, all construction and maintenance dredgings of beach-quality sand may be placed on the affected downdrift ocean beaches or, if placed elsewhere, an equivalent quality and quantity of sand from another location shall be placed on the downdrift ocean beaches."

SECTION 29.2.(i) G.S. 113-229 is amended by adding a new section to read:

"(h2) Clean, beach quality material dredged from navigational channels within the active nearshore, beach or inlet shoal systems shall not be removed permanently from the active nearshore, beach or inlet shoal system. This dredged material shall be disposed of on the ocean beach or shallow active nearshore area where it is environmentally acceptable and compatible with other uses of the beach."

SECTION 29.2.(j) G.S. 113-229(i) reads as rewritten:

"(i) Subject to ~~subsection (h1)~~ subsections (h1) and (h2) of this section, all materials excavated pursuant to such permit, regardless of where placed, shall be encased or entrapped in such a manner as to minimize their moving back into the affected water."

SECTION 29.2.(k) Subsections (f) through (j) of this section become effective when this act becomes law.

Requested by: Representative Wright
JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS ESTABLISHED

SECTION 29.3. Chapter 120 of the General Statutes is amended by adding the following new Article to read:

"Article 29.

"Joint Legislative Oversight Committee on Capital Improvements.

"§ 120-258. Committee created.

There is established the Joint Legislative Oversight Committee on Capital Improvements. The Committee consists of 16 members as follows:

- (1) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives; and
- (2) Eight members of the Senate appointed by the President Pro Tempore of the Senate.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-259. Purpose and powers of the Committee.

(a) The Joint Legislative Oversight Committee on Capital Improvements shall examine, on a continuing basis, capital improvements approved and undertaken for State facilities and institutions. As used in this section "capital improvements" includes repairs and renovations, and "State facilities and institutions" includes facilities and institutions of The University of North Carolina.

(b) The Committee shall have oversight over implementation of the Capital Improvements Planning Act established under Article 1B of Chapter 143 of the General Statutes and shall consider the State six-year capital improvement plan developed pursuant to G.S. 143-34.45.

(c) The Committee, while in discharge of official duties, shall have access to any paper or document and may compel the attendance of any State official or employee before the Committee or secure any evidence under G.S. 120.19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly.

(d) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-260. Organization of Committee.

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

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

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the

Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

PART XXIX-A. FEE PROVISIONS

ESTABLISH SET OR MODIFY VARIOUS FEES

SUBPART A. JUSTICE AND PUBLIC SAFETY FEES

SECTION 29A.1.(a) G.S. 15A-1371(i) reads as rewritten:

"(i) A fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) shall be paid by all persons who participate in the Community Service Parole Program. That fee must be paid to the clerk of court in the county in which the parolee is released. The fee must be paid in full within two weeks unless the Post-Release Supervision and Parole Commission, upon a showing of hardship by the person, allows ~~him~~ the person additional time to pay the fee. The parolee may not be required to pay the fee before ~~he~~ the person begins the community service unless the Post-Release Supervision and Parole Commission specifically orders that ~~he~~ the person do so. Fees collected under this subsection shall be deposited in the General Fund. The fee imposed under this ~~section~~ subsection may be paid as prescribed by the supervising parole officer."

SECTION 29A.1.(b) G.S. 20-179.4(c) reads as rewritten:

"(c) A fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the county in which the person is convicted. The fee shall be paid in full within two weeks unless the court, upon a showing of hardship by the person, allows additional time to pay the fee. The person may not be required to pay the fee before beginning the community service unless the court specifically orders the person to do so."

SECTION 29A.1.(c) G.S. 143B-262.4(b) reads as rewritten:

"(b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) shall be paid by all persons who participate in the program or receive services from the program staff. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which ~~he~~ the person is convicted. If the person is participating in the program as a result of a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full within two weeks from the date the person is ordered to perform the community service, and before ~~he begins his~~ the person may participate in the community service, service program, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before ~~he~~ the person pays the fee by the court in which ~~he~~ the person is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin ~~his~~ community service before the fee is paid by the official or agency representing the State in the agreement.

~~Fees collected pursuant to this subsection shall be deposited in the General Fund."~~

SECTION 29A.1.(d) This section becomes effective October 1, 2002, and applies to fees assessed or collected on or after that date.

SECTION 29A.2.(a) G.S. 15A-1343(c1) reads as rewritten:

"(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon written motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund."

SECTION 29A.2.(b) G.S. 15A-1368.4(f) reads as rewritten:

"(f) Required Supervision Fee. – The Commission shall require as a condition of post-release supervision that the supervisee pay a supervision fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) per month. The Commission may exempt a supervisee from this condition only if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of superior court of the county in which the supervisee was convicted. The clerk shall transmit any money collected pursuant to this subsection to the State to be deposited in the State's General Fund. In no event shall a supervisee be required to pay more than one supervision fee per month."

SECTION 29A.2.(c) G.S. 15A-1374(c) reads as rewritten:

"(c) Supervision Fee. – The Commission must require as a condition of parole that the parolee pay a supervision fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court of the county in which the parolee was convicted. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the general fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month."

SECTION 29A.2.(d) This section becomes effective October 1, 2002, and applies to supervision fees assessed or collected on or after that date.

SECTION 29A.3.(a) G.S. 20-135.2A(e) reads as rewritten:

"(e) Any driver or passenger who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of ~~twenty-five dollars (\$25.00)~~ (\$25.00) plus court costs in the sum of fifty dollars (\$50.00). Court costs assessed under this section are for the support of the General Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction under this section has no consequence other than payment of a penalty. ~~A person found responsible for a violation of this section may not be assessed court costs.~~ other consequence."

SECTION 29A.3.(b) This section becomes effective October 1, 2002, and applies to all costs assessed or collected on or after that date, except that in cases disposed of on or after that date by written appearance, waiver of trial or hearing, or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, no costs shall be assessed.

SECTION 29A.4.(a) G.S. 7A-304(a)(4) 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.

(4) For support of the General Court of Justice, the sum of ~~sixty-five dollars (\$65.00)~~ seventy-five dollars (\$75.00) in the district court, including cases before a magistrate, and the sum of ~~seventy-two~~

~~dollars (\$72.00) eighty-two dollars (\$82.00)~~ in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

....
" **SECTION 29A.4.(b)** G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of ~~fifty-nine dollars (\$59.00)~~ sixty-nine dollars (\$69.00) in the superior court, and the sum of ~~forty-four dollars (\$44.00)~~ fifty-four dollars (\$54.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~thirty-three dollars (\$33.00)~~ forty-three dollars (\$43.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 29A.4.(c) Subsection (a) of this section becomes effective October 1, 2002, and applies to all costs assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. Subsection (b) of this section becomes effective October 1, 2002, and applies to all costs assessed or collected on or after that date.

SECTION 29A.5.(a) G.S. 15A-145(c) reads as rewritten:

"(c) The court shall also order that the said misdemeanor conviction be expunged from the records of the court, and direct all law-enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation. ~~The cost of expunging such records shall be taxed against the petitioner.~~"

SECTION 29A.5.(b) G.S. 15A-145 is amended by adding a new subsection to read:

"(e) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 29A.5.(c) G.S. 15A-146(b) reads as rewritten:

"(b) The court may also order that the said entries shall be expunged from the records of the court, and direct all law-enforcement agencies bearing record of the same to expunge their records of the entries. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with the form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation. ~~The costs of expunging such records shall be taxed against the petitioner.~~"

The costs of expunging these records shall not be taxed against the petitioner."

SECTION 29A.5.(d) G.S. 90-96 is amended by adding a new subsection to read:

"(f) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 29A.5.(e) This section becomes effective October 1, 2002, and applies to petitions filed on or after that date.

SECTION 29A.6.(a) G.S. 50B-2 reads as rewritten:

"§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders.

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, ~~upon payment of the required service fees, served.~~

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter such orders as it deems necessary to protect the aggrieved party or minor children from such acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the

appropriate law enforcement agency where the defendant is to be served, ~~upon payment of the required service fees.~~ served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter such orders as it deems necessary to protect the aggrieved party or minor children from such acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody to pursuant subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The Clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 29A.6.(b) G.S. 50B-3(a) reads as rewritten:

"(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order or approve any consent agreement to bring about a cessation of acts of domestic violence. The orders or agreements may:

...
" (10) Award ~~costs and~~ attorney's fees to either party;

...
SECTION 29A.6.(c) G.S. 50B-4(a) reads as rewritten:

"(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. This party may file and proceed with that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, ~~upon payment of the required service fees.~~ served."

SECTION 29A.6.(d) G.S. 1-110(a)(6) is repealed.

SECTION 29A.6.(e) G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district ~~court~~ court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in cases heard before a magistrate, and the sum

of 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-nine dollars (\$59.00) in the superior court, and the sum of forty-four dollars (\$44.00) in the district court except that if the case is assigned to a magistrate the sum shall be thirty-three dollars (\$33.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 29A.6.(f) G.S. 7A-311(a) reads as rewritten:

"(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

- (1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and 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."

SECTION 29A.6.(g) G.S. 7A-311(b) reads as rewritten:

"(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except those contingent on expenses or sales prices. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court."

SECTION 29A.6.(h) This section becomes effective October 1, 2002.

SECTION 29A.7.(a) G.S. 7A-308(c) reads as rewritten:

"(c) A person who participates in a program for the collection of worthless checks under G.S. 14-107.2 must pay a fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00). The fee collected under this subsection must be remitted to the State by the clerk of the court in the county in which the program is established and credited to the Collection of Worthless Checks Fund. The Collection of Worthless Checks Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of the fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The money in the Fund is subject to appropriation by the General Assembly and may be used solely for the expenses of the programs established under G.S. 14-107.2 for the collection of worthless ~~checks~~ checks, including personnel, equipment, and other costs of district attorneys' offices that are attributable to the provision of these programs."

SECTION 29A.7.(b) This section becomes effective October 1, 2002.

SECTION 29A.8.(a) G.S. 7A-304(a) is amended by adding a new subdivision to read:

"(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.

...

(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

SECTION 29A.8.(b) G.S. 90-95.3(b) is repealed.

SECTION 29A.8.(c) Subsection (a) of this section becomes effective October 1, 2002, and applies to court costs assessed or collected on or after that date. Subsection (b) of this section becomes effective October 1, 2002, but the provisions of G.S. 90-95.3(b) continue to apply to any defendant who was ordered to make restitution under the provisions of that subsection prior to October 1, 2002.

SECTION 29A.9.(a) Article 36 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-455.1. Appointment fee in criminal cases.

(a) Each person who requests the appointment of counsel in a criminal case shall pay to the clerk of court a nonrefundable appointment fee of fifty dollars (\$50.00) at the time of appointment. Partial payments shall be credited against the amount of the fifty-dollar (\$50.00) fee due. No fee shall be due if the court finds that the person is not entitled to the appointment of counsel.

(b) The appointment fee in this section is due regardless of the outcome of the proceedings. If paid before the final determination of the action at the trial level, the amount of the fee paid shall be credited against any amounts the court determines to be owed for the value of legal services rendered to the defendant. If not paid before the final determination of the action at the trial level, the unpaid amount of the fee shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation. If no attorneys' fees are found due when the action is finally determined at the trial level, a judgment shall be entered, docketed, and indexed pursuant to G.S. 1-233 in the amount of the unpaid fee and shall constitute a lien as prescribed by the general law of the State applicable to judgments.

(c) The attorney representing the defendant when the action is finally determined at the trial level shall advise the court whether the appointment fee required by this section has been paid.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each affidavit of indigency submitted by a defendant or other determination of indigency by the court, regardless of the number of cases for which an attorney is appointed. An additional appointment fee shall not be assessed for any additional cases

thereafter assigned to an attorney if any cases for which a defendant was previously assessed an appointment fee are still pending. Nor shall an additional appointment fee be assessed if the charges for which an attorney was appointed are dismissed and subsequently refiled or if the defendant is appointed an attorney on appeal on a matter for which the defendant was assessed an appointment fee at the trial level.

(f) Of each appointment fee collected under this section, the sum of forty-five dollars (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

SECTION 29A.9.(b) G.S. 7A-304(d)(1) reads as rewritten:

- "(d) (1) 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:
- a. Sums in restitution to the victim entitled thereto;
 - b. Costs due the county;
 - c. Costs due the city;
 - d. Fines to the county school fund;
 - e. Sums in restitution prorated among the persons other than the victim entitled thereto;
 - f. Costs due the State;
 - g. Attorney's fees- fees, including appointment fees assessed pursuant to G.S. 7A-455.1."

SECTION 29A.9.(c) This section becomes effective December 1, 2002, and applies to all requests for the appointment of counsel made on or after that date.

SECTION 29A.10.(a) G.S. 7A-309 reads as rewritten:

"§ 7A-309. Magistrate's special fees.

The following special fees shall be collected by the magistrate and remitted to the clerk of superior court for the use of the State in support of the General Court of Justice:

- (1) Performing marriage ceremony..... ~~\$10.00~~\$20.00
- (2) Hearing petition for year's allowance to surviving spouse or child, issuing notices to commissioners, allotting the same, and making return..... ~~4.00~~8.00
- (3) Taking a deposition ~~5.00~~10.00
- (4) Proof of execution or acknowledgment of any instrument ~~1.00~~2.00
- (5) Performing any other statutory function not incident to a civil or criminal action ~~1.00~~2.00"

SECTION 29A.10.(b) This section becomes effective October 1, 2002, and applies to all acts done on or after that date.

SECTION 29A.11.(a) Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) for the support of the General Court of Justice. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section."

SECTION 29A.11.(b) Each community mediation center shall maintain records as to the number of cases in which dispute resolution fees are assessed and paid.

The Mediation Network of North Carolina shall collect this information from each center annually.

Each community mediation center shall also maintain records as to the source of referral for all court-referred cases. Each center receiving State funds shall use a standardized form and methodology to determine the referral source and report that information annually to the Mediation Network of North Carolina.

The Mediation Network of North Carolina shall report by March 15, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the fees collected year-to-date and the sources of referral of court-referred cases during the 2002-2003 fiscal year.

SECTION 29A.11.(c) This section becomes effective November 1, 2002, and applies to cases resolved on or after that date.

SECTION 29A.12.(a) G.S. 114-19.1(b) reads as rewritten:

"(b) As used in this section, "administration of criminal justice" means the performance of any of the following activities: the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of persons suspected of, accused of or convicted of a criminal offense. The term also includes screening for suitability for employment, appointment or retention of a person as a law enforcement or criminal justice officer, ~~or as an officer of the court, officer~~ or for suitability for appointment of a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives."

SECTION 29A.12.(b) This section becomes effective October 1, 2002.

SECTION 29A.13. G.S. 18B-903 is amended by adding a new subsection to read:

"(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of two hundred dollars (\$200.00) for each permit held. The fee shall be paid by May 1 of each year."

SECTION 29A.13.1.(a) G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage..... ~~\$40.00~~ \$60.00
 If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: ~~thirty cents (30¢)~~ forty-five cents (.45) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than ~~two hundred dollars (\$200.00),~~ three hundred dollars (\$300.00), a maximum ~~two hundred dollar (\$200.00)~~ three hundred dollar (\$300.00) fee will be collected.
- (2) Proceeding supplemental to execution..... 20.00 30.00
- (3) Confession of judgment 15.00 22.50
- (4) Taking a deposition 5.00 7.50
- (5) Execution..... 15.00 22.50

(6)	Notice of resumption of former name	5.00	<u>7.50</u>
(7)	Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge).....	\$1.00	<u>\$1.50</u>
(8)	Bond, taking justification or approving.....	5.00	<u>7.50</u>
(9)	Certificate, under seal.....	2.00	<u>3.00</u>
(10)	Exemplification of records	5.00	<u>7.50</u>
(11)	Recording or docketing (including indexing) any document		
	— first page	4.00	<u>6.00</u>
	— each additional page or fraction thereof.....		.25
(12)	Preparation of copies		
	— first page	1.00	<u>1.50</u>
	— each additional page or fraction thereof.....		.25
(13)	Preparation and docketing of transcript of judgment.....	5.00	<u>7.50</u>
(14)	Substitution of trustee in deed of trust	5.00	<u>7.50</u>
(15)	Execution of passport application – the amount allowed by federal law		
(16)	Repealed by Session Laws 1989, c. 783, s. 2.		
(17)	Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20.....	5.00	<u>7.50</u>
(18)	Filing the affirmations, acknowledgments, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133	4.00	<u>6.00</u>
(19)	Repealed by Session Laws 1989, c. 783, s. 3.		
(20)	Filing a motion to assert a right of access under G.S. 1-72.1	20.00	<u>30.00</u>

SECTION 29A.13.1.(b) This section becomes effective October 1, 2002, and applies to all acts done on or after that date.

SECTION 29A.14. Except as otherwise provided, this subpart becomes effective October 1, 2002.

SUBPART B. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

SECTION 29A.15.(a) G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school cafeterias, an annual fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00). The Department shall charge an additional twenty-five dollar (\$25.00) late payment fee to any establishment that fails to pay the required fee within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33-1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

SECTION 29A.15.(b) The Legislative Research Commission may study the current program within the Department of Environment and Natural Resources regarding the regulation of food and lodging facilities to determine whether the annual fee paid by establishments under G.S. 130A-248(d), as amended by subsection (a) of this section, is sufficient for the State and local food, lodging, and institution sanitation programs and activities. The Legislative Research Commission shall report no later than the convening of the 2004 Regular Session of the 2003 General Assembly. This report shall include a recommendation as to whether the annual fee paid by establishments should remain at fifty dollars (\$50.00) or should be changed and, if so, to what amount it should be changed in order to improve the State and local food, lodging, and institution sanitation programs and activities. This report shall include any legislative proposals needed to accomplish the Commission's recommendations.

SECTION 29A.16. G.S. 130A-248 is amended by adding two new subsections to read:

"(e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of two hundred dollars (\$200.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part.

(f) Any local health department may charge a fee not to exceed two hundred dollars (\$200.00) for plan review by that local health department of plans for food establishments subject to this section that are not subject to subsection (e) of this section. All of the fees collected under this subsection may be used for local food, lodging, and institution sanitation programs and activities. No food establishment that pays a fee under subsection (e) of this section is liable for a fee under this subsection."

SECTION 29A.17. Except as otherwise provided, this subpart becomes effective October 1, 2002.

SUBPART C. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

SECTION 29A.18.(a) G.S. 130A-93.1 reads as rewritten:

"§ 130A-93.1. Fees for vital records copies or search; automation fund.

(a) The State Registrar shall collect, process, and utilize fees for services as follows:

- (1) A fee not to exceed ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) shall be charged for issuing any copy of a vital record or for conducting a routine search of the files for the record when no copy is made. When certificates are issued or searches conducted by local agencies using databases maintained by the State Registrar, the local agency shall charge this fee and shall forward five dollars (\$5.00) of this fee to the State Registrar for purposes established in subsection (b) of this section.
- (2) A fee not to exceed ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) shall be charged in addition to the fee charged under subdivision (1) of this subsection and to all shipping and commercial charges when expedited service is specifically requested.
- (2a) The fee for a copy of a computer or microform database shall not exceed the cost to the agency of making and providing the copy.
- (3) Except as provided in subsection (b) of this section, fees collected under this subsection shall be used by the Department for public health purposes.

(b) The Vital Records Automation Account is established as a nonreverting account within the Department. Five dollars (\$5.00) of each fee collected pursuant to subdivision (a)(1) shall be credited to this Account. The Department shall use the revenue in the Account to fully automate and maintain the vital records system. When

funds sufficient to fully automate and maintain the system have accumulated in the Account, fees shall no longer be credited to the Account but shall be used as specified in subdivision (a)(3) of this section."

SECTION 29A.18.(b) G.S. 130A-118(d) reads as rewritten:

"(d) For the amendment of a certificate of birth or death after its acceptance for filing, or for the making of a new certificate of birth under this Article, the State Registrar shall be entitled to a fee not to exceed ~~seven dollars and fifty cents (\$7.50)~~ fifteen dollars (\$15.00) to be paid by the applicant."

SECTION 29A.19. The Department of Health and Human Services shall charge a fee in the amount of ten dollars (\$10.00) for a laboratory test performed by the State Public Health Laboratory under the Newborn Screening Program pursuant to G.S. 130A-125. If the actual cost to perform the test exceeds the amount of the fee authorized under this section, then the Department may increase the fee in accordance with its authority under G.S. 130A-125(c) to cover the cost.

SECTION 29A.20. Except as otherwise provided, this subpart becomes effective November 1, 2002.

SUBPART D. SECRETARY OF STATE FEES

SECTION 29A.21 G.S. 10A-4(b)(6) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

...

(6) Pay a nonrefundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00)."

SECTION 29A.22. G.S. 78A-17(9) reads as rewritten:

"(9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security ~~transaction and establish~~ transaction. There is established a fee of one hundred fifty dollars (\$150.00) to recover costs for any filing required, not to exceed one hundred fifty dollars (\$150.00), required."

SECTION 29A.23. G.S. 78A-17(17) reads as rewritten:

"(17) Any transaction that is exempt pursuant to rules established by the Administrator creating limited offering transactional exemptions that are consistent with the objectives of compatibility with federal limited offering exemptions and uniformity among the states. ~~The Administrator may establish~~ There is established a fee of one hundred fifty dollars (\$150.00) to recover costs for any filing required by such rules, not to exceed one hundred fifty dollars (\$150.00), rules."

SECTION 29A.24. G.S. 78A-31(b) reads as rewritten:

"(b) With regard to any security that is covered under section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(4)(d)), the Administrator, by rule or order, may require the issuer to file a notice on SEC Form D (17 C.F.R. § 239.500) and a consent to service of process signed by the issuer no later than 15 days after the first sale of the security in this State. ~~The Administrator may, by rule, establish~~ There is established a fee of one hundred fifty dollars (\$150.00) to recover costs for filing required by this section, not to exceed one hundred fifty dollars (\$150.00), section."

SECTION 29A.25. G.S. 55-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$125.00
(2) Application for reserved name	10.00 30.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Corporation's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected corporation	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of incorporation	50.00
(11) Restated articles of incorporation with amendment of articles	10.00 50.00
(12) Articles of merger or share exchange	50.00
(12a) Articles of conversion (other than articles of conversion included as part of another document)	50.00
(13) Articles of dissolution	30.00
(14) Articles of revocation of dissolution	10.00
(15) Certificate of administrative dissolution	No fee
(16) Application for reinstatement following administrative dissolution	100.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	250.00
(20) Application for amended certificate of authority	50.00 75.00
(21) Application for certificate of withdrawal	10.00 25.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Annual report	20.00
(24) Articles of correction	10.00
(25) Application for certificate of existence or authorization (paper)	5.00 15.00
(25a) <u>Application for certificate of existence or authorization (electronic)</u>	<u>10.00</u>
(26) Any other document required or permitted to be filed by this Chapter	10.00
(27) Repealed by Session Laws 2001-358, s. 6(b)."	

SECTION 29A.26. G.S. 55-1-22(c) reads as rewritten:

"(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original.
- (2) ~~Five dollars (\$5.00) for the certificate.~~ Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate."

SECTION 29A.27. G.S. 55A-1-22(a)(26) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

- ...
- (26) Application for certificate of existence or authorization (paper) ~~\$5.00~~ \$15.00
 - (26a) Application for certificate of existence or authorization (electronic) \$10.00"

SECTION 29A.28. G.S. 55A-1-22(c) reads as rewritten:

"(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and original.
- (2) ~~Five dollars (\$5.00) for the certificate.~~ Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate."

SECTION 29A.29. G.S. 57C-1-22(a)(24) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

- ...
- | | | |
|-------|--|------------------------------|
| (24) | Application for certificate of existence or authorization (paper) | 5.00 <u>15.00</u> |
| (24a) | Application for certificate of existence or authorization (electronic) | <u>10.00</u> " |

SECTION 29A.30. G.S. 57C-1-22(c) reads as rewritten:

"(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited liability company:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) ~~Five dollars (\$5.00) for the certificate.~~ Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate."

SECTION 29A.31. G.S. 59-1106(c) reads as rewritten:

"(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited partnership:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) ~~Five dollars (\$5.00) for the certificate.~~ Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate.

SECTION 29A.32. 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 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-office,~~ except that if two or more certificates for foreign adoption are requested concurrently, the fee for the second and subsequent certificates is five dollars (\$5.00)."

SECTION 29A.33. G.S. 120-47.3 reads as rewritten:

"§ 120-47.3. Registration fee.

Every lobbyist's principal shall pay to the Secretary of State a fee of ~~seventy five dollars (\$75.00) which fee shall be two hundred dollars (\$200.00) that is~~ due and payable by either the lobbyist or the lobbyist's principal at the time of registration.

A separate registration, together with a separate registration fee of ~~seventy five dollars (\$75.00), shall be two hundred dollars (\$200.00) is~~ required for each lobbyist's principal for which a person acts as a lobbyist. Fees so collected shall be deposited in the General Fund of the State."

SECTION 29A.34. G.S. 78A-37(b) reads as rewritten:

"(b) Every applicant for initial or renewal registration shall pay a filing fee of ~~two hundred dollars (\$200.00) three hundred dollars (\$300.00) in the case of a dealer and fifty five dollars (\$55.00) seventy-five dollars (\$75.00) in the case of a salesman.~~ The

Administrator may by rule reduce the registration fee proportionately when the registration will be in effect for less than a full year."

SECTION 29A.35. G.S. 78C-17(b) reads as rewritten:

"(b) Every applicant for initial or renewal registration shall pay a filing fee of two hundred dollars (\$200.00) in the case of an investment adviser, and ~~forty five dollars (\$45.00)~~ seventy-five dollars (\$75.00) in the case of an investment adviser representative. When an application is denied or withdrawn, the Administrator shall retain the fee.

SECTION 29A.36. G.S. 80-3(b) reads as rewritten:

"(b) The application shall be signed and verified by the applicant, by a partner, by a member of the firm, or an officer of the corporation or association applying for registration. In states in which a notary is not required by law to obtain a notary's stamp or seal, an original certificate of authority of the notary issued by the appropriate State agency shall be submitted with the application. If the application is signed by a person acting pursuant to a power of attorney from the applicant, an original power of attorney or a certified copy of the power of attorney shall accompany the application.

The application shall be accompanied by three specimens of the mark as currently used and by a filing fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00), payable to the Secretary."

SECTION 29A.37. G.S. 78A-31(a)(4) 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)):

(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)~~ two hundred dollars (\$200.00) 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."

SECTION 29A.38. Except as otherwise provided, this subpart becomes effective November 1, 2002.

PART XXX-A. LOCAL GOVERNMENT REVENUES

SECTION 30A.1. Section 34.15(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.15.(b)** This section becomes effective July 1, ~~2003~~ 2002."

SECTION 30A.2. G.S. 159-15 reads as rewritten:

"§ 159-15. Amendments to the budget ordinance.

Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after the ordinance's adoption in any manner, so long as the ordinance, as amended, continues to satisfy the requirements of G.S. 159-8 and 159-13. However, except as otherwise provided in this section, no amendment may increase or reduce a property tax levy or in any manner alter a property taxpayer's liability, unless the board is ordered to do so by a court of competent jurisdiction, or by a State agency having the power to compel the levy of taxes by the board.

If after July 1 the local government receives revenues that are substantially more or less than the amount anticipated, the governing body may, before January 1 following adoption of the budget, amend the budget ordinance to reduce or increase the property tax levy to account for the unanticipated increase or reduction in revenues.

The governing board by appropriate resolution or ordinance may authorize the budget officer to transfer moneys from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the governing board at its next regular meeting and shall be entered in the minutes."

PART XXX-B. DELAY 2001 TAX BREAKS

SECTION 30B.1.(a) The lead-in language of Section 34.19(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.19.(a)** Effective for taxable years beginning on or after January 1, ~~2002, 2003~~, G.S. 105-134.6(c)(3) and (4) reads as rewritten:"

SECTION 30B.1.(b) The lead-in language of Section 34.19(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.19.(b)** Effective for taxable years beginning on or after January 1, ~~2003, 2004~~, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:"

SECTION 30B.2.(a) The lead-in language of Section 34.20(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.20.(a)** Effective for taxable years beginning on or after January 1, ~~2002, 2003~~, G.S. 105-151.24 reads as rewritten:"

SECTION 30B.2.(b) The lead-in language of Section 34.20(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.20.(b)** Effective for taxable years beginning on or after January 1, ~~2003, 2004~~, G.S. 105-151.24, as amended by this section, reads as rewritten:"

PART XXX-C. UPDATE IRC REFERENCE

SECTION 30C.1.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2001, May 1, 2002~~, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 30C.1.(b) Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted in 2001 that increase North Carolina taxable income for the 2001 taxable year become effective for taxable years beginning on or after January 1, 2002.

SECTION 30C.2.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

..
(15) The applicable percentage of the amount allowed as a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

<u>Taxable Year</u>	<u>Percentage</u>
<u>2002</u>	<u>100%</u>

2003
70%
2004 and thereafter
0%"

SECTION 30C.2.(b) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

(8) The applicable percentage of the amount allowed as a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

<u>Taxable Year</u>	<u>Percentage</u>
<u>2002</u>	<u>100%</u>
<u>2003</u>	<u>70%</u>
<u>2004 and thereafter</u>	<u>0%</u>

SECTION 30C.2.(c) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(21) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (a)(15) of this section."

SECTION 30C.2.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

...

(17) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (c)(8) of this section."

SECTION 30C.2.(e) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 30C.3.(a) G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section for estates of decedents dying on or after January 1, 2002, is the maximum credit for state death taxes allowed under section 2011 of the Code, Code without regard to the phase-out of that credit under subdivision (b)(2) of that section.

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."

SECTION 30C.3.(b) This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. This section is repealed effective for the estates of decedents dying on or after January 1, 2004.

SECTION 30C.4. Effective for taxable years beginning on or after January 1, 2002, G.S. 105-134.6(b)(13) is repealed.

SECTION 30C.5.(a) G.S. 105-188(d) reads as rewritten:

"(d) Annual Exclusion. – The annual exclusion amount is equal to the federal inflation-adjusted exclusion amount provided in section 2503(b) of the Code. Gifts not exceeding a total value of ~~ten thousand dollars (\$10,000)~~ equal to the annual exclusion amount made to any one donee in a calendar year are not taxable under this Article. When gifts exceeding a total value of ~~ten thousand dollars (\$10,000)~~ equal to the annual exclusion amount are made to any one donee in a calendar year, only the portion of the gifts exceeding ~~ten thousand dollars (\$10,000)~~ the annual exclusion amount in value is taxable under this Article. This exclusion does not apply to gifts of future interests in property. For the purposes of determining the ~~exclusion herein provided, annual exclusion,~~ no part of a gift to an individual, or in trust for an individual, who has not attained the age of 21 years on the date of ~~such the transfer shall be~~ considered a gift of a future interest in property if the property and the income therefrom meet all of the following conditions: (i) they may be expended by, or for the benefit of, the donee before his attaining the donee reaches the age of 21 years, and years; (ii) they will to the extent not so expended pass to the donee on his attaining when the donee reaches the age of 21 years, and years; and (iii) they will, in the event the donee dies before attaining the age of 21 years, reaching that age, be payable to the estate of the donee or as he the donee may appoint under a general power of appointment.

When a gift is made by one spouse to a person other than the donor's spouse, the donor may claim both the donor's annual exclusion and the spouse's annual exclusion ~~provided that if~~ both spouses consent and both spouses are residents of this State when the gift is made. Consent to share annual gift tax exclusions ~~shall~~ must be made in writing on a timely filed gift tax return. Once given, consent to share annual exclusions is irrevocable."

SECTION 30C.5.(b) This section is effective January 1, 2002, and applies to gifts made on or after that date.

PART XXX-D. UNAUTHORIZED SUBSTANCE TAX EXPENSES

SECTION 30D.(a) G.S. 105-501 is amended by adding a new subdivision to read:

"...
In determining the net proceeds of the tax to be distributed, the Secretary shall deduct from the collections to be allocated an amount equal to one-fourth of the costs during the preceding fiscal year of:

...
(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.

...."

SECTION 30D.(b) This section becomes effective June 30, 2002.

PART XXX-E. INSURANCE REGULATORY CHARGE

SECTION 30E.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2002 calendar year.

SECTION 30E.(b) This section is effective when it becomes law.

PART XXX-F. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 30F.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is one-tenth percent (0.1%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2002.

SECTION 30F.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2002-2003 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 30F.(c) This section becomes effective July 1, 2002.

PART XXX-G. CLOSE CORPORATE TAX LOOPHOLES

SECTION 30G.1.(a) G.S. 105-130.4(a)(1) reads as rewritten:

"(1) "Business income" means ~~income arising from transactions and activity in the regular course of the corporation's trade or business and includes income from tangible and intangible property if the acquisition, management, and/or disposition of the property constitute integral parts of the corporation's regular trade or business operations.~~ all income that is apportionable under the United States Constitution."

SECTION 30G.1.(b) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 30G.2.(a) Section 2(a) of S.L. 2001-327 reads as rewritten:

"EQUALIZE FRANCHISE TAX ON CORPORATE-AFFILIATED LLCs

SECTION 2.(a) The General Assembly finds that most corporations engaged in business in this State comply with the State franchise tax on corporate assets. Some taxpayers, however, take advantage of an unintended loophole in the law and avoid franchise tax by transferring their assets to a controlled limited liability company. This tax avoidance creates an unfair burden on corporate citizens that pay the franchise tax on their assets. It is the intent of this section to apply the franchise tax equally to assets held by corporations and assets held by corporate-affiliated limited liability companies. It is also the intent of this section to provide that a criminal penalty applies to taxpayers who fraudulently evade the tax.

The General Assembly further finds that, after this loophole was closed in 2001, some taxpayers continue to avoid franchise tax by manipulating ownership of assets. One method is to interpose a controlled partnership between the corporation and the controlled limited liability company. This tax avoidance creates an unfair burden on corporate citizens that pay the franchise tax on their assets. It is the intent of the General Assembly to apply the franchise tax equally to assets held by corporations and assets held by corporate-controlled entities."

SECTION 30G.2.(b) G.S. 105-114(c) is recodified as G.S. 105-114.1 and reads as rewritten:

"§ 105-114.1. Limited liability companies.

(a) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

- (1) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.
- (2) Owned indirectly. – A person owns indirectly assets of a limited liability company if the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.
- (3) Principal corporation. – A corporation that is a member of a limited liability company or has a related member that is a member of a limited liability company.

(b) Controlled Companies. – If a corporation or a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation together own indirectly the limited liability company's governing law provides that seventy percent (70%) or more of its the limited liability company's assets, after payments to creditors, must be distributed upon dissolution to the member corporation or to includible corporations of an affiliated group in which the member corporation is includible, then the following provisions apply:

- (1) ~~(i) a~~ A percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that member principal corporation and must be included in the member principal corporation's computation of tax under this Article, and ~~(ii) the Article.~~
- (2) The principal member corporation's investment in the limited liability company is not included in the member principal corporation's computation of tax under this Article.
- (3) The attributable percentage is equal to the percentage of the limited liability company's assets, after payments to creditors, that would be distributable to the member corporation assets owned indirectly by the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations, under the limited liability company's governing law if the limited liability company dissolved as of the last day of the member corporation's taxable year.

(c) Other Companies. – In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a member principal corporation under this Article. ~~A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable. The definitions in section 1504 of the Code apply in this subsection.~~

(d) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this subsection ~~section~~ is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 30G.2.(c) This section becomes effective January 1, 2003, and applies to taxes due on or after that date.

PART XXX-H. HOUSING TAX CREDIT EFFECTIVE DATE CHANGE

SECTION 30H. Section 10(f) of S.L. 2000-56 reads as rewritten:

"**SECTION 10.(f)** Low-Income Housing Credit Changes. – G.S. 105-129.16B(d), as amended by Section 7 of this act, is effective for taxable years beginning on or after January 1, 2000. The remainder of Section 7 is effective for taxable years beginning on or after January 1, 2001, applies to buildings to which federal credits are allocated on or after January 1, ~~2001,2000,~~ and expires January 1, 2005."

PART XXX-I. EFFECTIVE DATE OF PARTS XXX-A THROUGH XXX-H

SECTION 30I. Except as otherwise provided, Parts XXX-A through XXX-H of this act are effective when this act becomes law. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no addition to tax may be made under those statutes for a taxable year beginning on or after January 1, 2002, and before January 1, 2003, with respect to an underpayment of corporate or individual income tax to the extent the underpayment was created or increased by this act.

PART XXXI. MISCELLANEOUS PROVISIONS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

EXECUTIVE BUDGET ACT APPLIES

SECTION 31.1. 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, Odom, Lee; Representatives Easterling, Oldham, Redwine

COMMITTEE REPORT

SECTION 31.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated September 18, 2002, 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.

SECTION 31.2.(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 2002-2003 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 requested adjustments to the budgets submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, 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.
- (2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

SECTION 31.2.(c) 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, Odom, Lee; Representatives Easterling, Oldham, Redwine

MOST TEXT APPLIES ONLY TO 2002-2003

SECTION 31.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2002-2003 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2002-2003 fiscal year. For example, uncodified provisions of this act relating to the Medicaid program apply only to the 2002-2003 fiscal year.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 31.4.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2001-424, S.L. 2001-457, S.L. 2001-514, S.L. 2001-513, S.L. 2001-496, and S.L. 2001-487 remain in effect.

SECTION 31.4.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2002-2003 fiscal year in S.L. 2001-424, S.L. 2001-457, S.L. 2001-514, S.L. 2001-513, S.L. 2001-496, and S.L. 2001-487 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.

SECTION 31.4.(c) Section 9 of S.L. 2002-12, as amended by S.L. 2002-54 and S.L. 2002-101, reads as rewritten:

"SECTION 9. Except as otherwise provided in this act, this act becomes effective July 1, 2002, and expires ~~September 30, 2002~~ the date Senate Bill 1115 of the 2001 General Assembly, the Current Operations, Capital Improvements, and Finance Act of 2002, becomes law."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

EFFECT OF HEADINGS

SECTION 31.5. 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, Odom, Lee; Representatives Easterling, Oldham, Redwine

SEVERABILITY CLAUSE

SECTION 31.6. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine

EFFECTIVE DATE

SECTION 31.7. Except as otherwise provided, this act becomes effective July 1, 2002.

In the General Assembly read three times and ratified this the 20th day of September, 2002.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 9:17 p.m. this 30th day of September, 2002