

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 507
HOUSE BILL 230

AN ACT TO APPROPRIATE FUNDS TO PROVIDE EXPANSION EXPENDITURES AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

PART 1. INTRODUCTION AND TITLE OF ACT

The General Assembly of North Carolina enacts:

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

Sec. 1.1. This act shall be known and cited as "The Expansion and Capital Improvements Appropriations Act of 1995".

PART 2. EXPANSION - RECURRING/GENERAL FUND

Sec. 2. Appropriations of recurring funds from the General Fund of the State for the expansion of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1997, according to the schedule that follows.

<u>Expansion - Recurring - General Fund</u>	<u>1995-96</u>	<u>1996-97</u>
Judicial	\$2,854,907	\$3,170,506
Office of the Governor	138,608	183,383
Department of Secretary of State	201,537	201,537
Department of State Treasurer	4,448,000	4,448,000
Department of Public Education	4,863,448	32,178,818

University of North Carolina - Board of Governors Institutional Programs	144,000	487,646
Department of Justice	594,005	698,711
Department of Administration	348,704	348,704
Department of Insurance	485,000	1,985,000
Department of Labor	36,000	39,348
Department of Commerce	267,041	267,041
Department of Environment, Health, and Natural Resources	3,299,750	3,259,750
Department of Human Resources		
Division of Aging	515,000	515,000
Office of the Secretary	400,000	400,000
Division of Social Services	942,067	853,199
Division of Services for the Blind	425,000	425,000
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	13,000,000	18,182,213
Division of Vocational Rehab	1,135,000	1,135,000
Division of Youth Services	991,371	1,610,541
Division for Services for Deaf and Hard of Hearing	500,000	1,500,000
Division of Child Development	290,124	310,243
Total Department of Human Resources	\$18,198,562	\$24,931,196
Department of Correction	7,615,200	45,235,450
Department of Revenue	3,265,811	3,040,615
Department of State Auditor	103,271	103,271
Department of Cultural Resources	740,673	887,257
Department of Crime Control		

and Public Safety	200,542	199,872
Office of State Controller	1,474,842	1,593,851
Board of Elections	1,000	1,000
Debt Service	15,031,552	24,369,052
Reserve for Salary Adjustments	800,000	800,000
Reserve for Compensation Increase	99,336,570	99,336,570
Department of Community Colleges	11,031,685	11,031,685
Reserve for Child Support Legislation	170,000	170,000
Reserve for Administrative Rules Process	167,000	167,000
GRAND TOTAL CURRENT OPERATIONS		
GENERAL FUND RECURRING	\$175,817,708	\$259,135,263

PART 3. EXPANSION - NONRECURRING/GENERAL FUND

EXPANSION - NONRECURRING/GENERAL FUND

Sec. 3. Appropriations of nonrecurring funds from the General Fund of the State for the expansion of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1997, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 1995-96 and 1996-97 fiscal years.

<u>Expansion - Nonrecurring-- General Fund</u>	<u>1995-96</u>	<u>1996-97</u>
Judicial	\$2,722,228	\$298,062
General Assembly	285,000	—
Office of the Governor	559,571	1,000,000
Office of State Budget and Management	75,000	—
Department of Public Education	32,526,146	—
Department of Secretary of State	10,700	—

Reserve for Administrative Rules Process	167,000	167,000
University of North Carolina - Board of Governors Institutional Programs	1,678,646	500,000
Department of Justice	389,380	295,294
Department of Administration	216,735	–
Department of Insurance	515,000	–
Department of Agriculture	200,000	–
Department of Commerce	6,650,000	1,250,000
Rural Economic Dev. Center	3,800,000	–
MCNC	(1,000,000)	–
Department of Environment, Health, and Natural Resources	3,926,190	500,000
Department of Human Resources		
Division of Aging	100,000	–
Division of Child Development	950,000	100,000
Office of the Secretary	2,000,000	–
Division of Social Services	300,000	–
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	400,000	–
Total Department of Human Resources	\$3,750,000	100,000
Department of Correction	2,833,456	561,971
Department of Revenue	8,040,412	116,600
Department of Cultural Resources	10,371,326	–
Department of Crime Control and Public Safety	754,932	125,000

Office of State Controller	6,490,457	—
State Board of Elections	575,000	3,500,000
Department of State Auditor	12,800	—
Department of Community Colleges	15,551,317	—
Reserve for Child Support Legislation	399,300	—
Reserve for Compensation Increase	3,521,609	—
Reserve for Administrative Rules Process	40,000	—
GRAND TOTAL - CURRENT OPERATIONS- GENERAL FUND NONRECURRING	\$104,895,205	\$8,246,927

PART 4A. EXPANSION/CAPITAL/HIGHWAY FUND

Sec. 4A. Appropriations of funds from the Highway Fund of the State for the expansion of the Department of Transportation are made for the biennium ending June 30, 1997, and for capital improvements for the 1995-96 fiscal year, according to the following schedule.

	1995-96	1996-97
A. EXPANSION PROJECTS		
1. DOT Administration	\$7,886,537	\$8,136,463
2. Division of Highways		
a. Administration and Operations	102,849	102,849
b. State Construction		
01. Small Urban Construction	3,000,000	3,000,000
c. State Maintenance		
01. Urban System	2,420,000	5,420,000
02. Contract Resurfacing	2,703,108	5,000,000
03. Primary	2,000,000	2,346,171
3. Division of Motor Vehicles	5,429,206	4,564,504
4. State Aid for Public Transportation	5,800,000	5,800,000
5. Reserve for Asphalt Plant Cleanup	1,000,000	1,000,000
6. Reserve for Pay Increase	7,914,055	7,914,055
7. Reserve for PCB Cleanup	1,000,000	—

Appropriations to Other State

Agencies

a. General Assembly	200,000	–
b. Crime Control and Public Safety	<u>1,662,525</u>	<u>1,035,175</u>

Total	\$41,118,280	\$44,319,217
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B. CAPITAL IMPROVEMENTS PROJECTS

1. Roof Replacements Statewide	\$432,900
2. HVAC Replacements Statewide - DMV	123,800
3. Safety Upgrades Statewide - DMV	123,800
4. Fire Alarm Renovations Materials and Test Lab, Raleigh, NC	72,800
5. Parking Lot Repairs Statewide - DMV	133,700
6. Roadside Environmental Warehouse Sylva, NC	463,000
7. District Engineer's Office Marion, NC	590,000
8. DMV/SHP Supplemental Funding Durham, NC	69,890
9. DMV/SHP Supplemental Funding Salisbury, NC	110,000
10. Equipment Shop Washington, NC	916,000
11. Equipment Shop Wentworth, NC	911,000
12. Equipment Shop Kinston, NC	916,000
13. Equipment Shop Meadows, NC	913,000
14. Materials and Test Lab Asheville, NC	389,000
15. DMV/SHP Addition and Renovation Morganton, NC	272,700
16. Exterior Renovation, Transportation Building, Raleigh, NC	169,900
17. Building and Land Purchase Williamston, NC	368,000
18. Electrical Upgrades Transportation Building, Raleigh, NC	<u>1,922,100</u>

Total \$8,897,590

Fuel Tank Replacement - State Highway Patrol
 Provides funds for replacement of fuel tanks at 15 sites @ \$32,000 per site and \$20,000 for testing equipment. \$500,000.

PART 4B. BUDGET AVAILABILITY STATEMENT REVISED

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

AVAILABILITY

Sec. 4B. Section 5 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 5. The General Fund and availability used in developing the 1995-97 budget is as shown below:

(1)	Composition of the 1995-97 beginning availability:		
a.	Revenue collections in 1994-95 in excess of authorized estimates		(\$ Million) \$192.00
b.	Unexpended appropriations during 1994-95 (reversions)		162.40
c.	Balance brought forward		<u>33.40</u>
	Subtotal		387.80
d.	Transfer to Savings Reserve		96.90
e.	Transfer to Reserve for Repair and Renovations		<u>125.00</u>
	Ending Fund Balance		\$ 165.9

		(\$ Million)	(\$ Million)
		<u>1995-96</u>	<u>1996-97</u>
(2)	Beginning Unrestricted Fund Balance	\$ 165.9	\$-
(3)	Revenues Based on Existing Tax Structure	10,019.6	10,658.1
(4)	94-95 Reserve for Tax Reductions	28.1	-

Changes:

1.	Tax Changes		
	(a) Personal Income	-235.0	-244.1

(b) Intangibles Repeal	-124.4	-124.5
(c) <u>H 396 (C495) Ports Tax Credit</u>	<u>-.7</u>	<u>-.7</u>
<u>H 55 (C477) Aquaculture Sales Tax</u>		
<u>Exemption</u>	<u>-.1</u>	<u>-.1</u>
<u>H 759 (C472) Nonprofit Home Sales</u>		
<u>Tax Refunds</u>	<u>-1.4</u>	<u>-1.4</u>
<u>H 223 (C474) Soft Drink Tax</u>	<u>=</u>	<u>-9.6</u>
<u>H 360 (C451) RR Diesel Sales Tax</u>		
<u>Exemption</u>	<u>-1.2</u>	<u>-1.5</u>
<u>H 718 (C456) State Parks Trust Fund</u>	<u>=</u>	<u>-18.0</u>
<u>Total Tax Changes</u>	<u>-362.8</u>	<u>-399.9</u>
2. Local Sales Tax -		
Local Government Commission	1.5	1.5
3. Insurance Regulatory Charges	3.7	3.7
	<u>4.7</u>	<u>4.2</u>
4. Treasurer's Banking Fees	-.7	-.7
5. Disproportionate Share		
Receipts	106.9	117.7
6. Investment Income Electronic		
Fund Transfers	2.0	2.0
Availability	<u>\$9,967.6</u>	<u>\$10,413.7</u>
	<u>\$9,965.2</u>	<u>\$10,382.9"</u>

PART 6. GENERAL PROVISIONS

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

BUDGETING OF PILOT PROGRAMS

Sec. 6. (a) Any program designated by the General Assembly as experimental, model, or pilot shall be shown as a separate budget item and shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

Requested by: Senators Plyler, Perdue, Odom

AUTHORIZATION OF PRIVATE LICENSE TAGS ON STATE-OWNED MOTOR VEHICLE

Sec. 6.1. (a) Pursuant to the provisions of G.S. 14-250, for the 1995-97 fiscal biennium, the General Assembly authorizes the use of private license tags on State-owned motor vehicles only for the State Highway Patrol and for the following:

<u>Department</u>	<u>Exemption Category</u>	<u>Number</u>
Motor Vehicles	License and Theft	97
Justice	SBI Agents	277
Correction	Probation/Parole Surveillance Officers (intensive probation)	25
Crime Control and Public Safety	ALE Officers	92
Revenue		3
Capital Area Police		2

(b) The 92 ALE vehicles authorized by this section to use private license tags shall be distributed as follows:

- (1) 54 among Agent I officers;
- (2) 20 among Agent II officers;
- (3) 1 to the Deputy Director;
- (4) 12 to the District Offices/Extra Vehicles; and
- (5) 5 to the Director, to be distributed at the Director's discretion.

(c) Except as provided in this section, all State-owned motor vehicles shall bear permanent registration plates issued under G.S. 20-84.

Requested by: Senators Plyler, Perdue, Odom

AUTHORIZATION OF PRIVATE LICENSE TAGS ON STATE-OWNED MOTOR VEHICLE

Sec. 6.2. (a) G.S 18B-500(f) is repealed.

(b) G.S. 20-39(h) reads as rewritten:

"(h) The Commissioner, notwithstanding any other provision of this Chapter, may lawfully and to the extent necessary, provide local, State or federal law-enforcement officers on special undercover assignments with motor vehicle drivers licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. Such registration plates shall only be used on publicly owned or leased vehicles. Requests for these licenses and registration plates shall be made to the Commissioner by the head of the local, State or federal law-enforcement agency and be accompanied by approval in writing from the Director of the State Bureau of Investigation upon a specific finding by the Director that the request is justified and necessary. The Director shall keep a record of all such licenses, registration plates, assumed names, false or fictitious addresses, and law-enforcement officers using the licenses or registration plates, and shall request the immediate return of any license or registration plate that is no longer necessary. Licenses and registration plates provided under this subsection shall expire six months after initial issuance or subsequent validation after the request for extension has been approved in writing by the Director of the State Bureau of Investigation. The head of the local, State or federal law-enforcement agency shall be responsible for the use of the licenses and registration plates and shall return them immediately to the Commissioner for cancellation upon

either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or registration plates issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses and registration plates issued under this act exceed ~~one hundred, fifty~~, fifty, and those issued shall be strictly monitored by the Director. All of the private registration plates issued to special agents of the State Bureau of Investigation under the Department of Justice and to alcohol law enforcement agents under the Department of Crime Control and Public Safety, pursuant to G.S. 14-250, may be fictitious plates and shall not be counted in the total number of fictitious plates authorized by this subsection."

(c) G.S. 114-17.1 is repealed.

Requested by: Senators Plyler, Perdue, Odom

DELETE DUPLICATIVE REPORT ON OVEREXPENDITURES OF FUNDS

Sec. 6.3. G.S. 143-23(a1) reads as rewritten:

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

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

~~If the total of all overexpenditures of a line item approved by the Director of the Budget for a fiscal year for the purposes set out in subdivisions (1) and (2) of this subsection exceeds ten percent (10%) of the line item amount in the budget enacted by the General Assembly, the Director of the Budget shall report monthly to the Joint Legislative Commission on Governmental Operations. The report shall include the reasons that make overexpenditures necessary and any unforeseen events necessitating overexpenditures that occurred after the budget was enacted by the General Assembly.~~

The Director of the Budget shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the Legislative Services Office, and the State Auditor the reason if the amount expended for a purpose or program is more than the amount appropriated for it from all sources. If the overexpenditure was authorized under subdivision (2) of this subsection, the Director of the Budget shall identify in the report the unforeseen event that required the overexpenditure."

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

NO EXPANSION OF PERFORMANCE BUDGETING

Sec. 6.5. Notwithstanding any other provision of law, no funds from any source shall be used to expand the areas covered by the performance budget format or any other aspect of performance budgeting for the 1996-97 or subsequent fiscal years until such expansion is specifically authorized by the General Assembly.

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

RESERVE FOR THE ADMINISTRATIVE RULES PROCESS

Sec. 6.6. Funds in the amount of two hundred seven thousand dollars (\$207,000) for the 1995-96 fiscal year and one hundred sixty-seven thousand dollars (\$167,000) for the 1996-97 fiscal year are appropriated in this act to the Office of State Budget and Management, Reserve for the Administrative Rules Process. The Director of the Budget shall allocate funds from this reserve to the Office of State Budget and Management, the Office of Administrative Hearings, and other agencies, as necessary to implement the provisions of Section 27.8 of this act.

PART 7. SALARIES AND BENEFITS

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

GOVERNOR/COUNCIL OF STATE/SALARY INCREASES

Sec. 7.1. (a) G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~ninety-seven thousand six hundred dollars (\$97,600)~~ ninety-eight thousand five hundred seventy-six dollars (\$98,576) annually, payable monthly."

(b) The annual salaries for the members of the Council of State, payable monthly, for the 1995-96 and 1996-97 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$87,000
Attorney General	87,000
Secretary of State	87,000
State Treasurer	87,000
State Auditor	87,000
Superintendent of Public Instruction	87,000
Agriculture Commissioner	87,000
Insurance Commissioner	87,000
Labor Commissioner	87,000

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

NONELECTED DEPARTMENT HEAD/SALARY INCREASES

Sec. 7.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 1995-96 and 1996-97 fiscal years are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$85,000
Secretary of Correction	85,000
Secretary of Cultural Resources	85,000
Secretary of Commerce	85,000
Secretary of Environment, Health, and Natural Resources	85,000
Secretary of Human Resources	85,000
Secretary of Revenue	85,000
Secretary of Transportation	85,000
Secretary of Crime Control and Public Safety	85,000

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

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Sec. 7.3. The annual salaries, payable monthly, for the 1995-96 and 1996-97 fiscal years for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$ 77,365
State Controller	108,271
Commissioner of Motor Vehicles	77,365
Commissioner of Banks	77,365
Chairman, Employment Security Commission	77,365
State Personnel Director	85,000
Chairman, Parole Commission	70,643
Members of the Parole Commission	65,220
Chairman, Industrial Commission	69,510
Members of the Industrial Commission	67,817
Chairman of the Utilities Commission	81,381
Commissioner of the Utilities Commission	80,381
Executive Director, Agency for Public Telecommunications	65,220
General Manager, Ports Railway Commission	58,893
Director, Museum of Art	79,274
Executive Director, Wildlife Resources Commission	66,773
Executive Director, North Carolina Housing Finance Agency	95,746

Executive Director, North Carolina Agricultural Finance Authority	75,302
Director, Office of Administrative Hearings	76,500

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

JUDICIAL BRANCH OFFICIALS/SALARY INCREASE

Sec. 7.4. (a) The annual salaries, payable monthly, for specified judicial branch officials for the 1995-96 and 1996-97 fiscal years are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$98,576
Associate Justice, Supreme Court	96,000
Chief Judge, Court of Appeals	93,600
Judge, Court of Appeals	92,000
Judge, Senior Regular Resident Superior Court	89,500
Judge, Superior Court	87,000
Chief Judge, District Court	79,000
Judge, District Court	76,500
District Attorney	80,600
Administrative Officer of the Courts	89,500
Assistant Administrative Officer of the Courts	75,160
Public Defender	80,600

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed forty-nine thousand five hundred eighty dollars (\$49,580), and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-five thousand three hundred twelve dollars (\$25,312) effective July 1, 1995.

(c) The salaries in effect for the 1994-95 fiscal year for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by two percent (2%), commencing July 1, 1995.

(d) The salaries in effect for the 1994-95 fiscal year for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1995, by pro rata amounts of the two percent (2%).

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

REDEFINE SERVICE FOR PURPOSES OF LONGEVITY PAY FOR ASSISTANT DISTRICT ATTORNEYS

Sec. 7.4A. G.S. 7A-65(d) reads as rewritten:

"(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, and fourteen and four-tenths percent (14.4%) after 15 years of service. 'Service' means service as an assistant district attorney-attorney or as a district attorney."

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

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASE

Sec. 7.6. (a) G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary	
Minimum	\$21,126	<u>\$21,549</u>
Maximum	37,406	<u>38,154</u>
Deputy Clerks	Annual Salary	
Minimum	\$16,891	<u>\$17,229</u>
Maximum	28,813	<u>29,389</u>

(b) G.S. 7A-102(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year ~~1994-95~~1995-96 because that person is at the top of the salary range as it existed for fiscal year ~~1993-94~~1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section."

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

MAGISTRATES' PAY PLAN

Sec. 7.7. (a) G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

<u>Step Level</u>		<u>Annual Salary</u>
Entry Rate	\$22,958	\$23,417
Step 1	25,262	25,767
Step 2	27,770	28,325
Step 3	30,506	31,116
Step 4	33,503	34,173
Step 5	36,797	37,533
Step 6	40,420	41,228."

(b) G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$ 18,095 <u>18,457</u>
1 or more but less than 3 years of service	19,025 <u>19,406</u>
3 or more but less than 5 years of service	20,896 <u>21,314.</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

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

GENERAL ASSEMBLY

Sec. 7.8. G.S. 120-3(b) reads as rewritten:

"(b) Every other member of the General Assembly shall receive increases in annual salary only to the extent of and in the amounts equal to the average increases received by employees of the State, effective upon convening of the next Regular Session of the General Assembly after enactment of these increased ~~amounts.~~ amounts.

except no such increase is granted upon the convening of the 1997 Regular Session of the General Assembly. Accordingly, upon convening of the ~~1995-1997~~ Regular Session of the General Assembly, every other member of the General Assembly shall be paid an annual salary of thirteen thousand nine hundred fifty-one dollars (\$13,951) payable monthly, and an expense allowance of five hundred fifty-nine dollars (\$559.00) per month."

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

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Sec. 7.9. G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~fifty-four thousand dollars (\$54,000)~~ fifty-five thousand eighty dollars (\$55,080) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

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

SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

Sec. 7.10. G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred thirty-two dollars (\$232.00)~~ two hundred thirty-seven dollars (\$237.00) per week, plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

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

LEGISLATIVE EMPLOYEES/SALARY INCREASES

Sec. 7.11. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1994-95 by two percent (2%). Nothing in this act limits any of the provisions of G.S. 120-32.

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

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 7.12. The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1995-96 funds to the Department of Community Colleges necessary to provide an average annual salary increase of two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 1995, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel. Salary funds shall be used to provide an average annual salary increase of two percent (2%) to all full-time employees and part-time employees on a pro rata basis.

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

UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES

Sec. 7.13. The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1995-96 to provide an annual average salary increase of two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 1995, for all employees of The University of North Carolina, as well as employees other than teachers 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 Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

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

MOST STATE EMPLOYEES/SALARY INCREASES/1995-96

Sec. 7.14. (a) The salaries in effect June 30, 1995, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 1995, unless otherwise provided by this act, by two percent (2%).

(b) Except as otherwise provided in this act, salaries in effect June 30, 1995, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by two percent (2%), commencing July 1, 1995.

(c) The salaries in effect June 30, 1995, for all permanent part-time State employees shall be increased on and after July 1, 1995, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 1995, in accordance with subsections (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 1995.

(f) No person may receive a salary increase under G.S. 126-7 during the 1995-96 fiscal year, and no State employee or officer shall receive a merit increment during the 1995-96 and 1996-97 fiscal years except as otherwise provided by this act.

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

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

Sec. 7.15. (a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

(c) The salary increases provided in this Part are to be effective July 1, 1995, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, 1995, or to employees involved in final written disciplinary procedures. The employee shall receive the increase on a current basis when the final written disciplinary procedure is resolved.

Payroll checks issued to employees after July 1, 1995, which represent payment of services provided prior to July 1, 1995, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

(d) The Director of the Budget shall transfer from the Reserve for Salary Increases in this act for fiscal year 1995-96 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

(e) The Director of the Budget shall allocate funds from the Reserve for Salary Adjustments provided in Section 2 of Chapter 324 of the 1995 Session Laws to

the Department of Environment, Health, and Natural Resources to implement, effective July 1, 1995, the salary range revision approved for dental hygienists in October 1993. This revision is in addition to any other salary increment provided for those dental hygienists in this act.

(f) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

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

LAW ENFORCEMENT SALARIES EQUALIZED

Sec. 7.15A. The Office of State Personnel shall adjust the salaries of law enforcement positions in Marine Fisheries and Wildlife Resources so that the average salaries of these employees are the same as the average salaries of members of the Highway Patrol in the same salary grade. Within each salary grade, each position shall receive the same percentage increase, except that no salary shall be increased above the top of the range.

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

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARY INCREASES

Sec. 7.15B. For the 1995-96 and 1996-97 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

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

CERTAIN PUBLIC SCHOOL EMPLOYEES' SALARY INCREASE

Sec. 7.16. (a) Superintendents, Assistant Superintendents, Associate Superintendents, Supervisors, Directors/Coordinators, and Finance Officers. – The Director of the Budget may transfer from the Reserve for Salary Increases created in this act for fiscal year 1995-96 funds necessary to provide a salary increase of two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 1995, for all superintendents, assistant superintendents, associate superintendents, supervisors, directors, coordinators, evaluators, and program administrators whose salaries are supported from the State's General Fund. These funds may not be used for any purpose other than for the salary increase and necessary employer contributions provided by this subsection.

(b) Noncertified Employees. – The Director of the Budget may transfer from the Reserve for Salary Increases created in this act for fiscal year 1995-96 funds necessary to provide a salary increase of two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 1995, for

all noncertified public school employees, except school bus drivers, whose salaries are supported from the State's General Fund. These funds may not be used for any purpose other than for the salary increases and necessary employer contributions provided by this subsection.

(c) The fiscal year 1994-95 pay rates adopted by local boards of education for school bus drivers shall be increased by at least two percent (2%) on and after July 1, 1995, to the extent that such rates of pay are supported by the allocation of State funds from the State Board of Education. Local boards of education shall increase the rates of pay for all school bus drivers who were employed during fiscal year 1994-95 and who continue their employment for fiscal year 1995-96 by at least two percent (2%) on and after July 1, 1995. The Director of the Budget may transfer from the salary increase reserve fund created in this act for fiscal year 1995-96 funds necessary to provide the salary increases for school bus drivers whose salaries are supported from the State's General Fund in accordance with the provisions of this subsection.

Requested by: Representatives Preston, Grady, Senators Plyler, Perdue, Odom

SCHOOL CENTRAL OFFICE SALARIES

Sec. 7.17. (a) The following monthly salary ranges apply to public school superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1995-96 fiscal year:

(1) School Administrator I:	\$2,697 - \$4,338
(2) School Administrator II:	\$2,862 - \$4,604
(3) School Administrator III:	\$3,037 - \$4,886
(4) School Administrator IV:	\$3,160 - \$5,084
(5) School Administrator V:	\$3,287 - \$5,290
(6) School Administrator VI:	\$3,488 - \$5,614
(7) School Administrator VII:	\$3,629 - \$5,841

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer, within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1995.

(b) The following monthly salary ranges apply to public school superintendents for the 1995-96 fiscal year:

(1) Superintendent I (Up to 2,500 ADM):	\$3,852 - \$6,199
(2) Superintendent II (2,501 - 5,000 ADM):	\$4,088 - \$6,578
(3) Superintendent III (5,001 - 10,000 ADM):	\$4,338 - \$6,981
(4) Superintendent IV (10,001 - 25,000 ADM):	\$4,604 - \$7,408
(5) Superintendent V (Over 25,000 ADM):	\$4,886 - \$7,861

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 7.19(f) of this act.

(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees.

(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers 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 pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers 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 under this section.

(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

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

TEACHER SALARY SCHEDULES

Sec. 7.18. (a) The Director of the Budget may transfer from the Reserve for Salary Increases for the 1995-96 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 percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and two and one-half percent (2.5%) of base salary for 25 or more years of State service, commencing July 1, 1995, 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 and the Superintendent of Public Instruction. The longevity payment shall be paid in a lump sum once a year.

(b)(1) Beginning July 1, 1995, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "A" teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>1995-96 Salary</u>
00	\$2,062
01	2,103
02	2,145
03	2,231

04	2,276
05	2,322
06	2,368
07	2,415
08	2,463
09	2,512
10	2,562
11	2,613
12	2,665
13	2,718
14	2,772
15	2,827
16	2,884
17	2,942
18	3,001
19	3,061
20	3,122
21	3,184
22	3,248
23	3,313
24	3,379
25	3,447
26	3,516
27	3,586
28	3,658
29	3,731
30+	3,731

- (2) Beginning July 1, 1995, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "G" teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>1995-96 Salary</u>
00	\$2,191
01	2,235
02	2,280
03	2,371
04	2,418
05	2,466
06	2,515
07	2,565
08	2,616
09	2,668
10	2,721

11	2,775
12	2,831
13	2,888
14	2,946
15	3,005
16	3,065
17	3,126
18	3,189
19	3,253
20	3,318
21	3,384
22	3,452
23	3,521
24	3,591
25	3,663
26	3,736
27	3,811
28	3,887
29	3,965
30+	3,965

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

(c) 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 "G" 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.

(d) Certified personnel of the public schools who are: (i) classified as "A" teachers; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as teachers for the first three pay periods of the 1995-96 school year shall receive a one-time bonus of seven hundred forty-six dollars (\$746.00), payable at the third payroll period of the 1995-96 school year. Certified personnel of the public schools who are: (i) classified as "G" teachers; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as teachers for the first three pay periods of the 1995-96 school year, shall receive a one-time bonus of seven hundred ninety-three dollars (\$793.00), payable at the third payroll period of the 1995-96 school year. Certified personnel of the public schools who are: (i) certified based on academic preparation at the six-year degree level; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as teachers for the first three pay periods of the 1995-96 school year shall receive a one-time bonus of eight hundred eighteen dollars (\$818.00), payable at the third payroll period of the 1995-96 school year. Certified personnel of the public schools who are: (i) certified based on academic preparation at the doctoral degree level; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as teachers for the first three pay periods of the 1995-96 school year shall receive a one-time bonus of eight hundred forty-four dollars (\$844.00), payable at the third payroll period of the 1995-96 school year.

(e) Certified personnel of the public schools who are: (i) classified as psychologists with advanced degrees; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as school psychologists for the first three pay periods of the 1995-96 school year, shall receive a one-time bonus of nine hundred one dollars (\$901.00), payable at the third payroll period of the 1995-96 school year. Certified personnel of the public schools who are: (i) classified as psychologists with doctoral degrees; (ii) at the maximum of their pay range on June 30, 1995; and (iii) employed as school psychologists for the first three pay periods of the 1995-96 school year, shall receive a one-time bonus of nine hundred twenty-six dollars (\$926.00), payable at the third payroll period of the 1995-96 school year.

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

SCHOOL-BASED ADMINISTRATOR SALARIES

Sec. 7.19. (a) Funds appropriated to the Reserve for Salary Increases shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

(b) The salary schedule for school-based administrators shall apply only to principals and assistant principals. The salary schedule for the 1995-96 fiscal year is as follows:

	Asst.							
Step	Prin.	Prin.I	Prin.II	Prin.III	Prin.IV	Prin.V	Prin.VI	Prin. VII
0	—	—	—	—	—	—	—	—
1	—	—	—	—	—	—	—	—
2	—	—	—	—	—	—	—	—

3	—	—	—	—	—	—	—	—	—
4	\$2,491	—	—	—	—	—	—	—	—
5	2,541	—	—	—	—	—	—	—	—
6	2,592	—	—	—	—	—	—	—	—
7	2,644	—	—	—	—	—	—	—	—
8	2,697	\$2,697	—	—	—	—	—	—	—
9	2,751	2,751	—	—	—	—	—	—	—
10	2,806	2,806	\$2,862	—	—	—	—	—	—
11	2,862	2,862	2,919	—	—	—	—	—	—
12	2,919	2,919	2,977	\$3,037	—	—	—	—	—
13	2,977	2,977	3,037	3,098	\$3,160	—	—	—	—
14	3,037	3,037	3,098	3,160	3,223	\$3,287	—	—	—
15	3,098	3,098	3,160	3,223	3,287	3,353	—	—	—
16	3,160	3,160	3,223	3,287	3,353	3,420	\$3,488	—	—
17	3,223	3,223	3,287	3,353	3,420	3,488	3,558	\$3,629	\$3,629
18	3,287	3,287	3,353	3,420	3,488	3,558	3,629	3,702	3,702
19	3,353	3,353	3,420	3,488	3,558	3,629	3,702	3,776	3,776
20	3,420	3,420	3,488	3,558	3,629	3,702	3,776	3,852	3,852
21	3,488	3,488	3,558	3,629	3,702	3,776	3,852	3,929	3,929
22	3,558	3,558	3,629	3,702	3,776	3,852	3,929	4,008	4,008
23	3,629	3,629	3,702	3,776	3,852	3,929	4,008	4,088	4,088
24	3,702	3,702	3,776	3,852	3,929	4,008	4,088	4,170	4,170
25	3,776	3,776	3,852	3,929	4,008	4,088	4,170	4,253	4,253
26	3,852	3,852	3,929	4,008	4,088	4,170	4,253	4,338	4,338
27	3,929	3,929	4,008	4,088	4,170	4,253	4,338	4,425	4,425
28	4,008	4,008	4,088	4,170	4,253	4,338	4,425	4,514	4,514
29	4,088	4,088	4,170	4,253	4,338	4,425	4,514	4,604	4,604
30	4,170	4,170	4,253	4,338	4,425	4,514	4,604	4,696	4,696
31	4,253	4,253	4,338	4,425	4,514	4,604	4,696	4,790	4,790
32	—	4,338	4,425	4,514	4,604	4,696	4,790	4,886	4,886
33	—	—	4,514	4,604	4,696	4,790	4,886	4,984	4,984
34	—	—	4,604	4,696	4,790	4,886	4,984	5,084	5,084
35	—	—	—	4,790	4,886	4,984	5,084	5,186	5,186
36	—	—	—	4,886	4,984	5,084	5,186	5,290	5,290
37	—	—	—	—	5,084	5,186	5,290	5,396	5,396
38	—	—	—	—	—	5,290	5,396	5,504	5,504
39	—	—	—	—	—	—	5,504	5,614	5,614
40	—	—	—	—	—	—	5,614	5,726	5,726
41	—	—	—	—	—	—	—	—	5,841.

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
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Assistant Principal	
Principal I	Less 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	More than 65 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.

(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.

(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.

(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.

(g) Longevity pay for principals and assistant principals shall be as provided for State employees.

- (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 subdivision applies to all transfers on or after the ratification date of this act, 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 subdivision for one calendar year following the date of the merger.

(i) Except as provided in subsection (h) of this section, the salary of a principal or assistant principal shall not be less for the 1995-96 fiscal year than it was for the 1993-94 fiscal year solely as a result of placement on the salary schedule established in this section.

(j) Certified personnel of the public schools who are school administrators and who are at the maximum of their pay range on June 30, 1995, shall receive a one-time bonus as set out in the table below payable at the third payroll period of the 1995-96 school year:

<u>Classification</u>	<u>Bonus Amount</u>
Asst. Principal	\$851
Asst. Principal Advanced	876
Asst. Principal Doctorate	901
Principal I	1,041
Principal I Advanced	1,071
Principal I Doctorate	1,102
Principal II	1,105
Principal II Advanced	1,135
Principal II Doctorate	1,166
Principal III	1,173
Principal III Advanced	1,203
Principal III Doctorate	1,233
Principal IV	1,220
Principal IV Advanced	1,250
Principal IV Doctorate	1,281
Principal V	1,270
Principal V Advanced	1,300
Principal V Doctorate	1,330
Principal VI	1,347
Principal VI Advanced	1,378
Principal VI Doctorate	1,408
Principal VII	1,402
Principal VII Advanced	1,432
Principal VII Doctorate	1,463.

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

STATE EMPLOYEE RIF RIGHTS/OPTIONS

Sec. 7.20. (a) G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. Posting requirement; State employees receive priority ~~consideration.~~ consideration; reduction-in-force rights.

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and
- (2) The particular work unit of the agency, department, or institution having the vacancy

in a location readily accessible to employees. If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State Personnel for the purpose of informing current State employees of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Personnel to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Personnel that it complied with these posting requirements. The agency, department, or institution which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(a1) State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

(a2) The State Personnel Commission shall adopt rules to provide that priority consideration for State employees separated from State employment as the result of reductions in force is to enable a State employee's return to career service at a salary grade and salary rate equal to that held in the most recent position. The State Personnel Commission shall provide that a State employee who:

- (1) Accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position.
- (2) Accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the salary rate exceeds the maximum of the new salary grade. When the salary rate exceeds the maximum of the salary grade, the employee's new salary rate shall be reduced to the maximum of the new salary grade.

(b) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

(c) If a State employee subject to this section:

- (1) Applies for another position of State employment that would constitute a promotion and;
- (2) Has substantially equal qualifications as an applicant who is not a State employee

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(c1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

- (1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and
- (2) Is determined qualified for that position

then within ~~the separating agency, all State agencies,~~ the State employee shall receive priority consideration over all other applicants including those who are current State employees not affected by the reduction in force. ~~Within all other agencies, the State employee shall receive priority consideration over other applicants from outside State government,~~ but shall receive equal consideration with other applicants who are current State employees not affected by the reduction in force. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal. The ~~reduction in force~~ reduction-in-force priority created by this subsection shall be administered in accordance with rules promulgated by the State Personnel Commission.

(c2) If the applicants for reemployment for a position include current State employees, a State employee with more than 10 years of service shall receive priority consideration over a State employee having less than 10 years of service in the same or related position classification. This reemployment priority shall be given by all State departments, agencies, and institutions with regard to positions subject to this Chapter.

(d) 'Qualifications' within the meaning of subsection (c) of this section shall consist of:

- (1) Training or education;
 - (2) Years of experience; and
 - (3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for."
- (b) This section becomes effective July 1, 1995.

Requested by: Representatives Sherrill, Pate, Thompson, Senators Plyler, Perdue, Odom

ADDITIONAL STATE EMPLOYEE RIF RIGHTS/OPTIONS

Sec. 7.21. (a) G.S. 135-40.2(a) is amended by adding a new subdivision to read:

"(6) Notwithstanding the provisions of G.S. 135-40.11, employees formerly covered by the provisions of this section, other than retired employees, who have been employed for 12 or more months by an employing unit and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at

the time of separation from service resulting from a job elimination. Employees covered by this subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination."

- (b) G.S. 135-40.2(b)(5) reads as rewritten:
"(5) The spouses and eligible dependent children of enrolled employees, retirees, former employees covered by the provisions of G.S. 135-40.2(a)(6), and members of the General Assembly."
- (c) G.S. 135-40.2(b) is amended by adding a new subdivision to read:
"(12) Notwithstanding the provisions of G.S. 135-40.11, former employees covered by the provisions of G.S. 135-40.2(a)(6), and their spouses and eligible dependent children who were covered by the Plan at the time of the former employees' separation from service pursuant to G.S. 135-40.2(a)(6), following expiration of the former employees' coverage provided by G.S. 135-40.2(a)(6)."
- (d) This section becomes effective June 30, 1995.

Requested by: Senators Martin of Pitt, Warren, Kerr, Gulley, Representatives Ives, Lemmond, Culpepper

ASSIST VOLUNTEER SAFETY WORKERS

Sec. 7.21A. (a) Article 87 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-87-10. Workers' Compensation Fund for the benefit of volunteer safety workers.

(a) Definition. – As used in this section, the term 'eligible unit' means a volunteer fire department or volunteer rescue/EMS unit that is not part of a unit of local government and is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to members of eligible units. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The State Fire and Rescue Commission, established under G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer. The Commission may adopt rules to implement this section.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from appropriations made to the Department of Insurance for this purpose. In addition,

every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund. If the Commission does not receive an annual payment from an eligible unit by July 1, then that unit shall not receive workers' compensation coverage from the Fund for the fiscal year that begins that July 1."

(b) The first per member payment that eligible fire departments and rescue/EMS units must make to the State Fire and Rescue Commission under G.S. 58-87-10 is payable on or before July 1, 1996.

(c) G.S. 58-78-5(a) is amended by adding a new subdivision to read:

"(16) To provide workers' compensation benefits under G.S. 58-87-10, to create a Volunteer Safety Workers' Compensation Board to assist it in performing this duty, and to reimburse the members of the Commission's Volunteer Safety Workers' Compensation Board in accordance with G.S. 138-5 for travel and subsistence expenses incurred by them."

(d) G.S. 58-86-35 reads as rewritten:

"§ 58-86-35. Firemen's application for membership in fund; monthly payments by members; payments credited to separate accounts of members.

Those firemen who are eligible pursuant to G.S. 58-86-25 may make application for membership to the board. Each fireman upon becoming a member of the fund shall pay the director of the fund the sum of ~~five-ten~~ dollars ~~(\$5.00)-(\$10.00)~~ per month. The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement."

(e) G.S. 58-86-40 reads as rewritten:

"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members.

~~Those rescue squad workers eligible pursuant to G.S. 58-86-30 may make application apply to the board for membership. All persons who subsequently become rescue squad workers may make application for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of five-ten dollars (\$5.00)-(\$10.00) per month. A rescue squad worker who, on the date of the establishment of the fund, has service as a rescue squad worker certified by the Department of State Treasurer, may make a lump sum payment of five dollars (\$5.00) per month for each month of service as an eligible rescue squad worker as defined by G.S. 58-86-30, on or before December 31, 1983, for as many as 240 months together with interest at an annual rate of six percent (6%). The~~

The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.”

(f) G.S. 58-86-45(b) reads as rewritten:

"(b) ~~Effective April 1, 1987, any~~ An eligible fireman or rescue squad worker who has not reached his thirty fifth birthday who is eligible and who is not yet 35 years old and has not previously elected to become a member may ~~make application through apply to~~ the board of trustees for membership in the fund at any time. ~~The person shall~~ Upon becoming a member, the worker must make a lump sum payment of ~~five ten~~ five ten dollars ~~(\$5.00)-(\$10.00)~~ per month retroactively to the time ~~he the worker~~ first became eligible to become a member, plus interest at an annual rate to be set by the board of trustees, ~~for each year of his~~ retroactive payments. Upon making this lump sum payment, the ~~person worker~~ shall be given credit for all prior service in the same manner as if ~~he the worker~~ had ~~made application~~ applied for membership ~~at the time he first became upon first becoming~~ eligible. ~~Any~~

~~A member who has not reached his thirty fifth birthday is not yet 35 years old, who made application applied for membership subsequent to the time he was first eligible after first becoming eligible, and who did not receive credit for prior service may receive credit for such the prior service upon making a lump sum payment of five ten dollars (\$5.00)-(\$10.00) per for each month since the worker first became eligible, retroactively to the time he first became eligible, plus interest at an annual rate to be set by the board of trustees, for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he the worker had made application applied for membership at the time he was first upon first becoming eligible."~~

(g) 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 ~~ten thirty five~~ ten thirty five dollars ~~(\$110.00)-(\$135.00)~~ per month. Any retired fireman receiving a pension of one hundred ten dollars (\$110.00) per month shall, effective July 1, ~~1994, 1995,~~ receive a pension of one hundred ~~ten thirty five~~ ten thirty five dollars ~~(\$110.00)-(\$135.00)~~ per month.

Members shall pay ~~five ten~~ five ten dollars ~~(\$5.00)-(\$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 ~~person member~~ shall be entitled to a pension hereunder until ~~his the member's~~ official duties as a fireman or rescue squad worker for which ~~he the member~~ is paid compensation shall have been terminated and ~~he the member~~ shall have retired as such according to standards or rules fixed by the board of trustees.

~~Any~~ A member who is totally and permanently disabled while in the discharge of ~~his 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 ~~his 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 ~~ten-thirty-five~~ dollars ~~(\$110.00)-(\$135.00)~~ per month beginning the first month after ~~his~~ 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 ~~his~~ the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ~~five-ten~~ dollars ~~(\$5.00) (\$10.00)~~ as required by G.S. 58-86-35 and G.S. 58-86-40.

~~Any 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 ~~five-ten~~ dollars ~~(\$5.00)-(\$10.00)~~ to the fund until ~~he~~ the member has paid into the fund the sum of one thousand two hundred dollars (\$1,200). ~~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 ~~his~~ the application and annually thereafter.

~~Any 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 ~~five-ten~~ dollars ~~(\$5.00)-(\$10.00)~~ to the fund until ~~he~~ the member has paid into the fund the sum of one thousand two hundred dollars (\$1,200). ~~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.”

(h) G.S. 58-86-30 reads as rewritten:

"§ 58-86-30. 'Eligible rescue squad worker' defined; determination and certification of eligibility.

'Eligible rescue squad worker' means ~~any a~~ person who is a member of a rescue or emergency medical services squad who that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Squads, Inc., and who has attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue or emergency medical services squad ~~worker~~ eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Squads, Inc., must file a roster certified by the secretary of the association of those rescue or

emergency medical services squad workers meeting the association requirements of this section with the State Treasurer by January 1 of each calendar year.

'Eligible rescue squad worker' does not mean 'eligible fireman' as defined by G.S. 58-86-25, nor may an 'eligible rescue squad worker' qualify also as an 'eligible fireman' in order to receive double benefits available under this Article."

(i) The changes made to G.S. 58-86-45 and G.S. 58-86-55 by this Part do not affect the credit received for service performed before July 1, 1995. The increase in monthly pension contributions from five dollars (\$5.00) to ten dollars (\$10.00) in G.S. 58-86-55 does not affect the amount of monthly contributions made prior to July 1, 1995.

(j) The caption for Article 87 of Chapter 58 of the General Statutes reads as rewritten:

"ARTICLE 87.

"Volunteer Fire Department and Rescue/EMS Funds. Safety Workers Assistance."

(k) G.S. 58-87-1(b) reads as rewritten:

"(b) A fire department is eligible for a grant under this section ~~if~~ if it meets all of the following conditions:

- (1) It serves a response area of 6,000 or less in ~~population;~~ population.
- (2) ~~It is all volunteer; and has no more than two paid members and~~ otherwise consists of volunteer members.
- (3) It has been certified by the Department of Insurance.

In making the population determination under subdivision (1), the Department shall use the ~~latest decennial U.S. Census population data.~~ most recent annual population estimates certified by the State Planning Officer."

(l) G.S. 58-87-5(b) reads as rewritten:

"(b) A rescue or rescue/EMS unit is eligible for a grant under this section ~~if~~ if it meets all of the following conditions:

- (1) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1066, s. 33(a), effective July 15, 1990.
- (2) ~~It is all volunteer, except that the rescue or rescue/EMS unit may have paid members, not to exceed two positions, either full time or part time; and has no more than two paid members and otherwise consists~~ of volunteer members.
- (3) It has been recognized by the Department as an organization that provides rescue or rescue and emergency medical ~~services; and~~ services.
- (4) It satisfies the eligibility criteria established by the Department under subsection (a) of this section."

(m) The Legislative Research Commission shall study the issue of assistance to volunteer fire, rescue, and emergency medical service units to determine the types and amounts of assistance that are appropriate for the State and other levels of government. In conducting the study, the Commission may consider the funding sources for and uses of funds in the Firemen's Relief Fund established in Article 84 of Chapter 58 of the General Statutes, the North Carolina Firemen's and Rescue Squad

Workers' Pension Fund established in Article 86 of Chapter 58 of the General Statutes, the Volunteer Fire Department Fund, the Volunteer Rescue/EMS Fund, and the Workers' Compensation Fund established in Article 87 of Chapter 58 of the General Statutes, and the Rescue Squad Workers' Relief Fund established in Article 88 of Chapter 58 of the General Statutes. The Commission shall make a final report to the 1996 Regular Session of the 1995 General Assembly.

(n) Subsections (d) through (i) of this section are effective July 1, 1995. The remainder of this section is effective upon ratification.

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

1995 RETIREMENT BENEFITS ACT

Sec. 7.22. (a) G.S. 135-5 is amended by adding a new subsection to read:

"(zz) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1994, shall be increased by two percent (2%) of the allowance payable on July 1, 1994, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1994, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) 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, 1994, and June 30, 1995."

(b) G.S. 135-65 is amended by adding a new subsection to read:

"(p) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1994, shall be increased by two percent (2%) of the allowance payable on July 1, 1994. Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1994, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) 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, 1994, and June 30, 1995."

(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(j) In accordance with subsection (a) of this section, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1995, shall be increased by two percent (2%) of the allowance payable on January 1, 1995. Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1995, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) 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, 1995, and June 30, 1995."

(d) G.S. 128-24(5) reads as rewritten:

"(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, and who

becomes entitled to benefits hereunder in accordance with the provisions hereof.

- a. Notwithstanding any other provision of this Chapter, any member who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated requirement of 12 or more years of creditable service shall be reduced to five or more years of creditable service. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or eligible former law enforcement officer.
- b. In lieu of the benefits provided in paragraph a of this subdivision, any member who separates from service prior to the attainment of the age of 60 years, for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14

57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System, may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement officers.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred service retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred service retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement officers.

- b3. Deferred retirement allowance of members retiring on or after July 1, 1995. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who separates from service prior to attainment of age 60 years, after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on a deferred retirement allowance upon attaining the age of 50 years or any time thereafter; provided that such member may so retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or an eligible former law enforcement officer.
- 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 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%).
- d. Should a beneficiary who retired on an early or service retirement allowance be restored to service as an employee, then the retirement allowance shall cease as of the first day of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

1. For a member who earns at least three years' membership service after restoration to service, the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restriction; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification.
2. For a member who does not earn three years' membership service after restoration to service, the retirement allowance shall be equal to the sum of the retirement allowance to which he would have been entitled had he not been restored to service, without modification of the election of an optional allowance previously made, and the retirement allowance that results from service earned since being restored to service; provided, that if the prior retirement allowance was based on a social security leveling payment option, the prior allowance shall be adjusted actuarially for the difference between the amount that would have been paid for each month had the payment not been suspended and what would have been paid if the retirement allowance had been paid without optional modification."

(e) G.S. 128-27 is amended by adding a new subsection to read:

(oo) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1994, shall be increased by two percent (2%) of the allowance payable on July 1, 1994, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1994, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) 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, 1994, and June 30, 1995."

(f) 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) ~~The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance or had attained 20 years of creditable service.~~
- (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(b15)(1)b. or G.S. 128-27(b15)(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."

- (g) This section becomes effective July 1, 1995.

Requested by: Representatives Barnes, Senators Plyler, Perdue, Odom

SALARY RELATED CONTRIBUTIONS/CONFORM UNC OPTIONAL PLAN

Sec. 7.22A. Section 7.1(b) of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(b) Effective July 1, 1995, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1995-96 fiscal year are (i) ten and eighty-three hundredths percent (10.83%) - Teachers and State Employees; (ii) fifteen and eighty-three hundredths percent (15.83%) - State Law Enforcement Officers; (iii) ~~nine and ten hundredths percent (9.10%)~~ nine and eighteen hundredths percent (9.18%) - University Employees' Optional Retirement Program; (iv) twenty-two and sixty-five hundredths percent (22.65%) - Consolidated Judicial Retirement System; and (v) twenty-three and twenty-seven hundredths percent (23.27%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan."

Requested by: Representatives Pate, Russell, Sherrill, Easterling, Senators Plyler, Perdue, Odom

FURTHER 1995 RETIREMENT BENEFITS

Sec. 7.23. (a) G.S. 135-5(b15) reads as rewritten:

"(b15) Service Retirement Allowance of Members Retiring on or after July 1, ~~1994~~1994, but before July 1, 1995. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1994, but before July 1, 1995, 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 seventy-three hundredths percent (1.73%) 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(b15)(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(b15)(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 seventy-three hundredths percent (1.73%) 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 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(b15)(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(b15)(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(b15)(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 provided by G.S. 135-5(b14)(2)c.
- 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)."

(b) G.S. 135-5 is amended by adding a new subsection to read:

"(b16) Service Retirement Allowance of Members Retiring on or After July 1, 1995. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1995, 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 seventy-five hundredths percent (1.75%) 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(b16)(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(b16)(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 seventy-five hundredths percent (1.75%) 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 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(b16)(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(b16)(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(b16)(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(b16)(2)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)."

(c) G.S. 128-27(b14) reads as rewritten:

"(b14) Service Retirement Allowance of Members Retiring on or after July 1, 1994.1994, but before July 1, 1995. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1994, but before July 1, 1995, 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 seventy-one hundredths percent (1.71%) of his average final compensation, multiplied by the number of years of his creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(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

seventy-one hundredths percent (1.71%) of his average final compensation, multiplied by the number of years of creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a), (2b), and (3)."

(d) G.S. 128-27 is amended by adding a new subsection to read:

"(b15) Service Retirement Allowance of Members Retiring on or After July 1, 1995. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1995, 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 seventy-two hundredths percent (1.72%) 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(b15)(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. 128-27(b15)(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 seventy-two hundredths percent (1.72%) 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 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(b15)(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(b15)(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(b15)(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(b15)(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)."

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

ADDITIONAL RETIREMENT BENEFITS

Sec. 7.23A. (a) 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(b15)(1)b.~~ G.S. 135-5(b16)(1)b. or ~~G.S. 135-5(b15)(2)e.,~~ G.S. 135-5(b16)(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 (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. 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."

(b) G.S. 135-5 is amended by adding a new subsection to read:

"(aaa) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1995. – From and after July 1, 1995, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1995, shall be increased by one and two-tenths of one percent (1.2%) of the allowance payable on June 1, 1995. This allowance shall be calculated on the allowance payable and in effect on June 30, 1995, so as not to be compounded on any other increase granted by act of the 1995 General Assembly."

(c) G.S. 128-27 is amended by adding two new subsections to read:

"(pp) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1995. – From and after July 1, 1995, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1995, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1995. This allowance shall be calculated on the allowance payable and in effect on June 30, 1995, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1995 General Assembly.

(qq) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1993, shall be increased by seven-tenths of one percent (0.7%) of the allowance payable on July 1, 1993, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1995, the

retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1993, but before June 30, 1994, shall be increased by a prorated amount of seven-tenths of one percent (0.7%) 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, 1993, and June 30, 1994."

Requested by: Senators Warren, Plyler, Perdue, Odom

RESTORE THE PROVISION FOR PURCHASE OF OUT-OF-STATE SERVICE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 7.23D. (a) G.S. 128-26 is amended by adding a new subsection to read:

"(j2) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service previously rendered to any state, territory, or other governmental subdivision of the United States other than this State by paying a total lump-sum payment determined as follows:

- (1) For members who completed 10 years of prior and current membership service, and retired members who completed 10 years of prior and current membership service prior to retirement, and whose current membership began on or before January 1, 1988, and who make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered current membership service, times the employee contribution rate at that time, times the months of service to be purchased, times two, with sufficient interest added thereto so as to equal the full cost of allowing such service, plus an administrative fee to be set by the Board of Trustees.
- (2) For members who complete five years of prior and current membership service, and retired members who complete five years of prior and current membership service prior to retirement, and eligible members and retired members covered by subdivision (1) of this subsection, whose current membership began on or before January 1, 1988, but who did not or do not make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term 'full liability' includes assumed postretirement allowance increases, as determined by the Board of Trustees, from the earliest

age at which a member could retire on an unreduced service retirement allowance.

Creditable service under this subsection shall be allowed only at the rate of one year of out-of-state service for each two years of service in this State, with a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this System. Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service."

(b) G.S. 135-4 is amended by adding a new subsection to read:

"(11) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service previously rendered to any state, territory, or other governmental subdivision of the United States other than this State by paying a total lump-sum payment determined as follows:

- (1) For members who completed 10 years of membership service, and retired members who completed 10 years of membership service prior to retirement, whose current membership began on or before July 1, 1981, and who make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered current membership service, times the employee contribution rate at that time, times the months of service to be purchased, times two, with sufficient interest added thereto so as to equal the full cost of allowing such service, plus an administrative fee to be set by the Board of Trustees.
- (2) For members who complete five years of membership service, and retired members who complete five years of membership service prior to retirement, and eligible members and retired members covered by subdivision (1) of this subsection, whose current membership began on or before July 1, 1981, but who did not or do not make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term 'full liability' includes assumed postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance.

Creditable service under this subsection shall be allowed only at the rate of one year of out-of-state service for each two years of current membership service in this State, with

a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this System. Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service."

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

STATE EMPLOYEE HEALTH BENEFIT PLAN/INCREASED WELLNESS BENEFITS

Sec. 7.24. (a) G.S. 135-40.5 is amended by adding two new subsections to read:

"(e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent (100%) of allowable charges for routine diagnostic examinations and tests, including Pap smears, breast, colon, rectal, and prostate exams, X rays, mammograms, blood and blood pressure checks, urine tests, tuberculosis tests, and general health checkups that are medically necessary for the maintenance and improvement of individual health but no more often than once every three years for covered individuals to age 40 years, once every two years for covered individuals to age 50 years, and once a year for covered individuals age 50 years and older, unless a more frequent occurrence is warranted by a medical condition when such charges are incurred in a medically supervised facility. Provided, however, that charges for such examinations and tests are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities, or to comply with governmental licensing requirements. The maximum amount payable under this subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal year.

(f) Immunizations. – The Plan will pay one hundred percent (100%) of allowable charges for immunizations for the prevention of contagious diseases as generally accepted medical practices would dictate when directed by an attending physician."

(b) G.S. 135-40.6(8)s. reads as rewritten:

"s. Routine Diagnostic Examinations: Allowable charges for routine diagnostic examinations and tests, including Pap smears, breast, colon, rectal, and prostate exams, X rays, mammograms, blood and blood pressure checks, urine tests, tuberculosis tests, and general health checkups that are medically necessary for the maintenance and improvement of individual health but no more often than once every three years for covered individuals to age 40 years, once every two years for covered individuals to age ~~55~~50 years, and once a year for covered individuals age ~~55~~50 years and older, unless a more frequent occurrence is warranted by a medical condition when such charges are incurred in a medically supervised facility. Provided, however, that charges for such examinations and tests

are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities or to comply with governmental licensing requirements. ~~The maximum amount payable under this subdivision is one hundred fifty dollars (\$150.00) per fiscal year.~~"

(c) G.S. 135-40.6(8)t. is repealed.

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

STATE EMPLOYEE HEALTH BENEFIT PLAN/INCREASED LIFETIME BENEFIT

Sec. 7.25. Effective January 1, 1994, G.S. 135-40.9 reads as rewritten:

"§ 135-40.9. Maximum benefits.

The maximum lifetime benefit for each covered individual will be ~~one million dollars (\$1,000,000).~~ two million dollars (\$2,000,000)."

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

STATE EMPLOYEE HEALTH BENEFIT PLAN/ORAL SURGERY BENEFITS

Sec. 7.26. G.S. 135-40.6(8)f. reads as rewritten:

"f. Dental Services: Oral surgery, including extraction of teeth, necessitated because of medical treatment. Dental surgery and appliances for mouth, jaw, and tooth restoration necessitated because of external violent and accidental means, such as the impact of moving body, vehicle collision, or fall occurring while an individual is covered under G.S. 135-40.3. No benefits are provided in connection with injury incurred in the act of chewing, nor for damage or breakage of an appliance such as bridge or denture being cleaned or otherwise not in normal mouth usage at the time of accident, nor for appliances for orthodontic treatment when a class of malocclusion, other than orthognathic, or cross bite has been diagnosed. Benefits for temporomandibular joint (TMJ) dysfunction appliance therapy are limited to cases where the TMJ dysfunction has been diagnosed as solely resulting from accidental means as certified by the attending practitioner and approved by the Claims Processor.

Benefits shall include extractions, fillings, crowns, bridges, or other necessary therapeutic and restorative techniques and appliances to reasonably restore condition and function to that existing immediately prior to the accident. Injury or breakage of

existing appliances such as bridges and dentures is limited to repair of such appliances unless certified as damaged beyond repair."

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

STATE EMPLOYEE HEALTH BENEFIT PLAN/WAIVER OF INPATIENT HOSPITAL CERTIFICATION PENALTY

Sec. 7.27. G.S. 135-40.6(2)f. reads as rewritten:

"f. Prior to admission for scheduled inpatient hospitalization, the admitting physician shall contact the Plan and secure approval certification for an inpatient admission, including a length of stay, based upon clinical criteria established by the medical community, before any in-hospital benefits are allowed under G.S. 135-40.8(a). Immediately following an emergency or unscheduled inpatient hospitalization, the admitting physician shall contact the Plan and secure approval certification for the admission's length of stay before any in-hospital benefits are allowed under G.S. 135-40.8(a). Effective January 1, 1987, failure to secure certification, or denial of certification, shall result in in-hospital benefits being allowed at the rate maximum amount of out-of-pocket expenses established by G.S. 135-40.8(b). Denial of certification by the Plan shall be made only after contact with the admitting physician and shall be subject to appeal to the Executive Administrator and Board of Trustees. Inpatient hospital admission and length of stay certifications required by this subdivision do not apply to inpatient admissions outside of the United States. While approval certification for inpatient admissions is required to be initiated by the admitting physician, the employee or individual covered by the Plan shall be responsible for insuring that the required certification is secured. Failure to secure certification for inpatient hospitalization shall not result in a penalty to the employee or individual when approval would have been given if requested."

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

STATE EMPLOYEE HEALTH BENEFIT PLAN/RETIREE PREMIUMS BASED ON RETIREMENT SERVICE CREDIT

Sec. 7.28. (a) G.S. 135-40.2(a)(2) reads as rewritten:

"(2) Retired teachers, State employees, members of the General Assembly, and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985.

For employees first hired on and after October 1, 1995, and members of the General Assembly first taking office on and after October 1, 1995, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision."

(b) G.S. 135-40.2 is amended by adding a new subsection to read:

"(a1) The following persons shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3:

(1) Retired teachers, State employees, and members of the General Assembly with 10 but less than 20 years of retirement service credit, provided they were first hired or took office on or after October 1, 1995. For such future retirees, the State shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual retirees shall pay the balance of the total noncontributory premiums not paid by the State."

(c) G.S. 135-40.2(b) is amended by adding a new subdivision to read:

"(11) Retired teachers, State employees, and members of the General Assembly with less than 10 years of retirement service credit, provided they were first hired or took office on or after October 1, 1995."

Requested by: Senators Plyler, Perdue, Odom

STATE EMPLOYEE HEALTH BENEFIT PLAN/INCREASED CHIROPRACTIC BENEFITS

Sec. 7.28B. G.S. 135-40.6(8)n. reads as rewritten:

"n. Chiropractic Services: Limited to the alignment of the spine and releasing of pressure by manipulation in accordance with the definitions in G.S. 90-143. Maximum benefits for x-rays, manipulations, and modalities shall be ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000) per fiscal year."

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

LRC STUDY CIVILIANIZATION

Sec. 7.29. Section 8.3 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 8.3. The Legislative Research Commission may study issues related to civilianizing certain State government law enforcement functions and positions, including the appropriate use of nonsworn, noncertified personnel in positions for which sworn status is not cost-effective or required. This study shall include the recommendations made by the Government Performance Audit Committee on civilianization to the 1993 General Assembly.

The Legislative Research Commission may study what positions should be included in the salary continuation provisions of G.S. 143-166.13(a).

The Legislative Research Commission may make an interim report, including any legislative recommendations, to the 1995 General Assembly, Regular Session 1996, and shall make a final report, including any legislative recommendations, to the 1997 General Assembly."

PART 8. GENERAL ASSEMBLY

Requested by: Representatives Gardner, Hayes, Nye, Senators Martin of Guilford, Forrester

BLUE RIBBON TASK FORCE ON THE MENTAL HEALTH SYSTEM

Sec. 8.1. (a) If the Mental Health Study Commission is not reauthorized by the 1995 General Assembly, Regular Session 1995, there is established in the General Assembly a Blue Ribbon Task Force on the Mental Health System. This task force shall study systemwide issues affecting the development, administration, and delivery of mental health services, including issues relating to the governance, accountability, and quality of services delivered.

(b) This Blue Ribbon Task Force on the Mental Health System shall be composed of 11 members appointed as follows:

- (1) Four members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives;
- (2) Four members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate;
- (3) One member of Coalition 2001, appointed by the Governor;
- (4) One member of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, appointed by the Secretary of the Department of Human Resources; and
- (5) One member of the Department of Insurance, appointed by the Commissioner of Insurance.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a legislative member from their appointments to serve as cochair of the task force. Meetings shall be called at the will of the cochairs.

All members shall serve at the will of their appointing officer. Unless removed or unless resigning, members shall serve until the task force has made its report. Vacancies in membership shall be filled by the appropriate appointing officer.

(c) The Blue Ribbon Task Force on the Mental Health System may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the task force. The professional staff shall include the appropriate staff from the Fiscal Research, Research, and Legislative Drafting Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the task force through the offices of House of Representatives and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the task force. The task force may

meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The task force, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information and any data within their possession or ascertainable from their records, and the power to subpoena witnesses.

Members of the task force shall receive per diem, subsistence, and travel allowances as follows:

- (1) Task force members who are members of the General Assembly, at the rate established in G.S. 120-3.1;
- (2) Task force members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6; and
- (3) All other task force members, at the rate established in G.S. 138-5.
- (d) The Blue Ribbon Task Force shall report the results of its study, together with any legislative proposals and cost analyses, to the 1995 General Assembly, Regular Session 1996, within a week of its convening.

Requested by: Representatives Ives, Lemmond, Senator Warren

CONFIDENTIALITY OF DOCUMENTS USED TO PREPARE FISCAL NOTES

Sec. 8.2. G.S. 120-131.1(a) as enacted by Section 8.1 of Chapter 324 of the 1995 Session laws reads as rewritten:

"(a) A request made to an employee of a State agency other than the General Assembly by an employee of the Fiscal Research Division for assistance in the preparation of a fiscal note is confidential. An employee of a State agency other than the General Assembly who receives such a request or who learns of such a request made to another employee of his or her agency shall reveal the existence of the request only to other employees of the agency to the extent that it is necessary to respond to the request, and to the employee's supervisor and to the Office of State Budget and Management. All documents prepared by the employee in response to the request of the Fiscal Research Division are also confidential and shall be kept confidential in the same manner as the original ~~request~~ request, except that documents submitted to the Fiscal Research Division in response to the request cease to be confidential under this section when the Fiscal Research Division releases a fiscal note based on the documents."

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Gullely

REVIEW GENERAL FUND FINANCIAL MODEL

Sec. 8.3. Of the funds appropriated in this act to the General Assembly, the sum of thirty-five thousand dollars (\$35,000) for the 1995-96 fiscal year shall be used to conduct a review of the General Fund Financial Model. The review shall be coordinated by the Fiscal Research Division of the Legislative Services Office, and shall be completed on or before February 1, 1996.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

STUDY JOB TRAINING PROGRAMS

Sec. 8.5. (a) There is created the Joint Legislative Study Commission on Job Training Programs. The purpose of the Commission is to review State and federally funded job training programs currently in existence to determine the feasibility of eliminating or consolidating those which are duplicative, inefficient, or ineffective in carrying out their purposes and activities.

(b) The Commission shall consist of six members of the House of Representatives appointed by the Speaker of the House of Representatives and six members of the Senate appointed by the President Pro Tempore of the Senate. Members shall serve for the duration of the 1995-97 Session. Upon delivering its final report to the 1997 General Assembly the Commission shall expire. Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member to serve as cochair of the Commission.

(c) The Commission shall have the following powers and duties:

- (1) To review State and federal laws, rules, and regulations pertaining to job training programs to determine the purpose of each program, the population served, and each program's annual outcomes in terms of type of training received, work search efforts, and job placement;
- (2) To ascertain as far as possible the intention of the United States Congress with respect to continued funding of federally mandated job training programs, and any changes in funding formulae;
- (3) To review the amount of State and federal dollars appropriated for each job training program conducted in this State, and to review federal requirements for continuous federal funding of the programs;
- (4) To review the number of different State agencies that administer State and federal job training programs, the number of persons employed to implement each job training program, and the amount of State dollars needed annually to implement the program;
- (5) To determine whether federally funded job training programs in this State may lawfully be abolished or reduced in size by the General Assembly, and the impact of such reduction or elimination;
- (6) To conduct public hearings to receive citizen, State agency, and local government comment and experience with the job training programs;
- (7) To conduct other studies or activities to aid the Commission in carrying out its purpose and duties; and
- (8) To ensure program evaluation and accountability for all workforce development programs and to create a comprehensive statewide focus on workforce development

(d) The Commission shall make an interim report on its progress to the 1995 General Assembly, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Education Oversight Committee not later than May 1, 1996, and shall present its final report of findings and recommendations to the 1997 General Assembly, the Joint Legislative Commission on Governmental

Operations, and the Joint Legislative Education Oversight Committee, upon its convening. The report shall identify each job training program operating in this State as of January 1, 1995, and shall recommend whether each program should be expanded, continued without change, abolished, consolidated with another program, or otherwise modified.

(e) Members of the Commission shall serve without pay but shall receive per diem and substance in accordance with Chapter 120 of the General Statutes. The facilities of the State Legislative Building and any other State office building used by the General Assembly shall be available to the Commission for its use.

(f) The Commission may use available clerical employees of the General Assembly, with the approval of the Legislative Services Commission. The Commission may, with the consent of the Legislative Services Commission, use employees of the Fiscal Research, Legislative Automated Systems, General Research, Legislative Drafting, and Public Information Divisions of the Legislative Services Commission.

(g) Notwithstanding G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the General Assembly the sum of twenty-five thousand dollars (\$25,000) for the 1995-96 fiscal year and the sum of twenty-five thousand dollars (\$25,000) for the 1996-97 fiscal year to implement this section.

PART 9. OFFICE OF THE GOVERNOR

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Gulley

TOTAL QUALITY MANAGEMENT PROGRAM

Sec. 9. For the 1995-96 fiscal year only, the provisions of G.S. 143-16.3 do not apply to the Total Quality Management Program in the Office of the Governor.

PART 10. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Representatives Ives, Lemmond, Senator Warren

LOCAL FIRE PROTECTION FUNDS

Sec. 10. The Office of State Budget and Management, in conjunction with the State Property Office, Department of Administration, shall study the current fire protection grant process. The Office of State Budget and Management shall report to the 1995 General Assembly, 1996 Regular Session, regarding its findings and recommendations.

In its study the Office of State Budget and Management and the State Property Office shall consider, but are not limited to, the following:

- (1) Fire protection grant history by political subdivision;
- (2) Inequities in the current grant process;
- (3) Impact of declining proportional shares on a fixed appropriation;
- (4) Improvements that could be made to the grant process, including:
 - a. An allocation based on current property values;
 - b. A method of updating property values over time; and

- c. The recognition of fire protection funding requirements for new facilities.

Requested by: Senators Perdue, Martin of Pitt, Plyler, Odom, Rand, Jordan, Kerr,
Representatives Mitchell, Weatherly

OSBM STUDY STATE-OWNED AIRCRAFT MODIFIED

Sec. 10.1. Section 10.4 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 10.4. The Office of State Budget and Management shall study the use of State-owned ~~aircraft~~ aircraft, including associated and ancillary equipment such as aerial photographic cameras and related mapping services using instruments such as stereoplotters, and shall report the results of its study to the Joint Legislative Commission on Governmental Operations on or before April 1, 1996. The study shall include consideration of the following:

- (1) For each Department, the number and type of aircraft, the number of pilots, and the number and type of support personnel for aircraft.
- (2) For each Department, the budget for aircraft, the source of funding for aircraft, the number of hours the aircraft is available, and the number of hours the aircraft is used.
- (3) The feasibility and desirability of consolidating any or all State-owned aircraft operations.
- (4) The feasibility and desirability of sharing of aircraft by Departments.
- (5) The feasibility and desirability of Departments' contracting for aircraft services rather than owning their own aircraft.
- (6) Compilation and review of Departments' policies regarding authorized passengers on the aircraft and which Departmental personnel is responsible for determining which passengers are authorized."

PART 11. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper

COST SHARING OF THE PERSONNEL MANAGEMENT INFORMATION SYSTEM

Sec. 11. The Office of State Personnel shall develop a proposed schedule of fees or charges to be paid by each department and university to cover data processing costs that exceed the appropriation made by the General Assembly for maintenance of the system. The Office of State Personnel shall present the recommendation for the fee schedule to the Joint Appropriations Subcommittee on General Government and to the Fiscal Research Division during the 1996 Regular Session of the 1995 General Assembly. Departments and universities shall have on-line access to all data on their employees and positions, as well as access to public information on all State employees.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Gulley

WORKERS' COMPENSATION COST CONTAINMENT PROGRAM PILOT

Sec. 11.1. The Office of State Budget and Management shall, after consultation with the Office of State Personnel, develop a pilot program that shall be known as the Workers' Compensation Cost Containment Program, to reduce the cost to State government of workers' compensation claims filed by State employees. The Office of State Budget and Management shall present the plans for the proposed pilot project to the Joint Legislative Commission on Governmental Operations for its comments and approval. Upon obtaining approval of the proposed pilot project from the Joint Legislative Commission on Governmental Operations, the Office of State Budget and Management may implement the pilot project, and shall choose, by a process of competitive bidding, a third-party administrator to manage claims processing.

Services provided by the third-party administrator shall include determination of compensability and related questions, incident reporting analysis, incident investigation, medical case management, disability management, and information management. Reimbursement to the third-party administrator shall be determined as a percentage of realized savings, calculated according to a methodology established by the Office of State Budget and Management. The Director of the Budget shall select agencies to participate in the pilot program and may transfer lapsed salary funds from the salary accounts of participating agencies to a Workers' Compensation Reserve Fund established in the Office of State Budget and Management for the purpose of paying workers' compensation claims of employees of the participating agencies.

On or before April 1, 1996, the Office of State Budget and Management, after consultation with the Office of State Personnel, shall submit to the General Assembly a report setting forth the status of the program, the results achieved, and recommendations for any further action by the General Assembly as may be required.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper

GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES

Sec. 11.2. The Department of Human Resources shall continue to provide the current office space for the four regional offices of the Governor's Advocacy Council for Persons with Disabilities or office space that is comparable to that now used by the Council.

Requested by: Senators Plyler, Warren, Gulley, Representatives Ives, Lemmond, Culpepper

CONSOLIDATE GRANTS PROCESS FOR CENTERS FOR VICTIMS OF DOMESTIC VIOLENCE

Sec. 11.3. (a) Federal and State grant funds are available for centers for victims of domestic violence and the North Carolina Coalition Against Domestic Violence. However, an applicant must apply to the Department of Human Resources to obtain a grant funded by federal funds and to the Council on the Status of Women, Department of Administration, to obtain a grant funded by State funds. To eliminate the needless duplication of time, effort, and review, the Department of Administration and the Department of Human Resources shall develop and implement a consolidated grant application form and process for centers for victims of domestic violence and the North

Carolina Coalition Against Domestic Violence. The forms and process shall be developed and implemented by July 1, 1996.

(b) The Fiscal Research Division shall study the feasibility of consolidating the function of administering the federal and State grants for centers for victims of domestic violence and the North Carolina Coalition Against Domestic Violence and shall report to the 1995 General Assembly, 1996 Regular Session, regarding its findings and recommendations.

PART 11A. DEPARTMENT OF INSURANCE

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
DECREASE CONSUMER PROTECTION FUND

Sec. 11A. (a) G.S. 58-2-215 reads as rewritten:

"§ 58-2-215. Consumer Protection Fund.

(a) A special fund is created in the Office of the State Treasurer, to be known as the Department of Insurance Consumer Protection 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 shall only be spent pursuant to warrants drawn by the Commissioner on the Fund through the State Treasurer. The Fund shall be subject to the provisions of the Executive Budget Act; except that the provisions of Article 3C of Chapter 143 of the General Statutes do not apply to subdivision (b)(1) of this section.

(b) All moneys credited to the Fund shall be used only to pay the following expenses incurred by the Department:

- (1) For the purpose of retaining outside actuarial and economic consultants, legal counsel, and court reporting services in the review and analysis of rate filings, in conducting all hearings, and through any final adjudication.
- (2) In connection with any delinquency proceeding under Article 30 of this Chapter, for the purpose of locating and recovering the assets of or any other obligations or liabilities owed to or due an insurer that has been placed under such proceeding.
- (3) In connection with any civil litigation, other than under Chapter 150B of the General Statutes or any appeal from an order of the Commissioner or his deputies, that is commenced against the Commissioner or his deputies and that arises out of the performance of their official duties, for the purpose of retaining outside consultants, legal counsel, and court reporting services to defend such litigation.

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on the Fund exceeds the amount yielded by the

application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the ~~Fund~~-Fund, except that the appropriation for the 1995-96 fiscal year shall not exceed the sum of seven hundred fifty thousand dollars (\$750,000) and for the 1996-97 fiscal year shall not exceed the sum of two hundred fifty thousand dollars (\$250,000). In the event the amount in the Fund exceeds ~~one million dollars (\$1,000,000) at the end of any fiscal year, two hundred fifty thousand dollars (\$250,000) at the end of any fiscal year, beginning with the 1995-96 fiscal year, such excess shall revert to the General Fund.~~

(d) In no event shall more than seventy percent (70%) of the amount in the Fund be allocated or spent for any one purpose specified in subsection (b) of this section in any fiscal year."

(b) Effective July 1, 1996, G.S. 58-2-215(d) is repealed.

(c) Effective June 30, 1995, Section 31 of Chapter 1069 of the 1989 Session Laws, Regular Session 1990, reads as rewritten:

"Sec. 31. Section 23 of this act does not apply to the 1990 automobile rate filing made pursuant to Article 36 of Chapter 58 of the General Statutes. Section 27 of this act shall expire at the end of the 1993-94 fiscal year and Section 28 shall become effective upon the expiration of Section 27. ~~If the General Assembly does not appropriate or transfer funds in accordance with Sections 1, 22, 26, 27, or 28 of this act for a fiscal year, Sections 1 through 14 and Sections 23 through 30 of this act shall expire on the day after the General Assembly adjourns without making the appropriations or transfers; and the statutes amended by Sections 2 through 14, 23, and 26 shall read as they did immediately prior to the effective date of this act.~~"

PART 12. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
REPEAL CAPITOL PRESERVATION COMMISSION

Sec. 12. (a) Chapter 682 of the 1993 Session Laws is repealed.

(b) G.S. 121-9 is amended by adding a new subsection, which reenacts the law as it existed prior to July 1, 1995:

"(h) Preservation and Custodial Care of State Capitol. – The rotunda, corridors, and stairways of the first floor of the State Capitol and all portions of the second, third, and loft floors of the said building shall be placed in the custody of the Department of Cultural Resources; and the Department shall, subject to the availability of funds for the purpose, care for and administer these areas for the edification of present and future generations. The aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as practicable as they shall appear following the restoration of the Capitol. The Department of Cultural Resources is authorized to deny the use of the legislative chambers for meetings in order that they, with their historic furnishings, may be better preserved for posterity; provided, however, that the General Assembly may hold therein such sessions as it may by resolution deem proper.

The Department of Cultural Resources is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and

administer historic properties in a suitable manner. However, for the purposes of carrying out the provisions of this section, it is hereby directed that such cooperation and assistance shall be made available to the said Department of Cultural Resources and such labor supplied, as may be feasible, by the Department of Administration.

The offices and working areas of the first floor as well as all washrooms and the exterior of the Capitol shall remain under the jurisdiction of the Department of Administration: Provided, however, that the Department of Administration shall seek the advice of the Department of Cultural Resources in matters relating to any alteration, renovation, and furnishing of said offices and areas."

(c) This section is effective upon ratification.

Requested by: Representatives Ives, Lemmond, Senator Warren

TECHNICAL CORRECTION/EXECUTIVE MANSION CURATOR TRANSFERRED

Sec. 12.1. Section 11.1 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 11.1. The position of Executive Mansion Curator (~~position number 4129-0101-0006-125~~)(position number 4149-0101-0006-125) is transferred from the Department of Administration to the Department of Cultural Resources. This transfer will permit the Department of Cultural Resources to better maintain the historical personal properties of the Executive Mansion. This provision does not affect, in any way, the jurisdiction of the Department of Administration over the Executive Mansion and its grounds."

Requested by: Representatives Ives, Lemmond, Senator Warren

NUMBER OF POSITIONS IN DEPARTMENT OF CULTURAL RESOURCES REDUCED

Sec. 12.2. Notwithstanding Section 28.2 of Chapter 324 of the 1995 Session Laws, there is a total reduction in the Continuation Budget Operations for the Department of Cultural Resources of 19.5 positions for the 1995-96 fiscal year and of 19.5 positions for the 1996-97 fiscal year. The revisions in Chapter 324 of the 1995 Session Laws, the Continuation Budget Operations Appropriations Act, for the Department of Cultural Resources for the 1995-96 fiscal year and for the 1996-97 fiscal year are as follows:

	1995-96	1996-97
(1230) Archives and History	(\$90,618) R	(\$90,618) R
	-3.00	-3.00
(1241) Historic Sites	(\$77,452) R	(\$77,452) R
	-3.00	-3.00
(1270) Museum of History	(\$269,322) R	(\$269,322) R
	-9.50	-9.50
(1320) Museum of Art	(\$29,495) R	(\$29,495) R
	-1.00	-1.00

Requested by: Representatives Culpepper, Ives, Lemmond, Holmes, Creech, Esposito, Senators Warren, Gulley, Plyler, Perdue, Odom

NEWBOLD-WHITE HOUSE

Sec. 12.2A. (a) The North Carolina Historical Commission shall study:

- (1) The feasibility and advisability of acquiring and operating the Newbold-White House together with adjacent lands now owned by the Perquimans County Historical Association in Perquimans County as a State Historic Site; and
- (2) The cost to the State of operating and maintaining the Newbold-White House as a State Historic Site.

(b) The North Carolina Historical Commission shall report its findings and recommendations to the three cochairs of the Senate Appropriations and Base Budget Committee, the three cochairs of the House of Representatives Appropriations Committee, and the 1995 General Assembly, 1996 Regular Session.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
HISTORIC SITES REPAIRS AND RENOVATIONS FUNDS

Sec. 12.3. (a) Funds allocated in Section 5.3 of Chapter 324 of the 1995 Session Laws to the Office of State Budget and Management for the Repairs and Renovations Fund may be used to make needed repairs and renovations at the State Historic Sites.

(b) There is established the Historic Sites Repairs and Renovations Review Committee. The Committee shall consist of the following members: The three co-chairs of the Senate Appropriations and Base Budget Committee and the three co-chairs of the House of Representatives Appropriations Committee. The Office of State Budget and Management shall submit its proposal for the use of funds from the Repairs and Renovations Fund for historic sites to the Committee before submitting the proposal to the Joint Legislative Commission on Governmental Operations in accordance with Section 5.3 of Chapter 324 of the 1995 Session Laws.

Requested by: Senators Warren, Gulley, Plyler, Perdue, Odom, Representatives Ives, Lemmond, Culpepper, Holmes, Creech, Esposito

GRANTS TO PUBLIC LIBRARIES

Sec. 12.4. (a) Funds in the amount of two million dollars (\$2,000,000) appropriated in this act to the Department of Cultural Resources for the 1995-96 fiscal year shall be used as grants-in-aid for public libraries to assist in the purchase of books or for construction costs of public libraries and public school libraries. The Secretary of Cultural Resources shall award grants authorized by this section.

(b) The Department of Cultural Resources shall report to the Fiscal Research Division by December 1, 1995, regarding the grants made in accordance with this section.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper

GRANTS TO LOCAL MUSEUMS

Sec. 12.5. (a) Funds in the amount of two million dollars (\$2,000,000) appropriated in this act to the Department of Cultural Resources for the 1995-96 fiscal year shall be used as grants-in-aid for local museums. The Secretary of Cultural Resources may require a match by non-State funds as deemed appropriate.

(b) The Department of Cultural Resources shall report to the Fiscal Research Division by December 1, 1995, regarding the grants made in accordance with this section.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
ROANOKE ISLAND COMMISSION

Sec. 12.6. (a) G.S. 143B-131.1 reads as rewritten:

"§ 143B-131.1. Commission established.

There is established the Roanoke Island Commission. The Commission shall be an independent commission, but shall be located within the Department of Cultural Resources for ~~organizational, budgetary, and administrative~~ historic resource management, organizational, and budgetary purposes."

(b) G.S. 143B-131.2 reads as rewritten:

"§ 143B-131.2. Roanoke Island Commission —~~Powers~~ Purpose, powers, and duties.

(a) The Commission is created to combine various existing entities in the spirit of cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and cultural assets of Roanoke Island. The Commission is further created to operate and administer the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo, except as otherwise determined by the Commission.

(b) The Commission ~~may~~ shall have the following powers and duties:

- (1) ~~Advise~~ To advise the Secretary of Transportation and adopt rules on matters pertaining to, affecting, and encouraging restoration, preservation, and enhancement of the ~~appearance and appearance, maintenance, and~~ aesthetic quality of U.S. Highway 64/264 and N.C. 400 travel corridors on Roanoke ~~Island~~ Island and the grounds on Ice Plant Island.
- (2) ~~Advise the Secretary of the Department of Cultural Resources and adopt rules on matters pertinent to the operation and maintenance of~~ To operate the Elizabeth II State Historic Site and Visitor Center and the Elizabeth II as permanent memorials commemorating the Roanoke Voyages, 1584-1587.
- (3) ~~Advise the Secretary of the Department of Cultural Resources and adopt rules on matters pertinent to~~ To supervise the development of Ice Plant Island and to manage future ~~facilities in cooperation with the Department of Cultural Resources.~~ facilities.

- (4) ~~Advise~~ To advise the Secretary of the Department of Cultural Resources on matters pertinent to historical and cultural events on Roanoke Island.
 - (5) With the assistance of the Department of Cultural Resources, to identify, preserve, and protect properties located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo consistent with applicable State laws and Department rules.
 - (6) ~~Make recommendations to the Secretary of the Department of Cultural Resources for establishing and providing a proper~~ To establish and collect a charge for admission to the ship, and for the maintenance and operation of the ship, the visitor center, and the grounds as a permanent memorial and exhibit. ~~any property or event operated by the Commission.~~
 - (7) ~~Solicit~~ To solicit and accept gifts, grants, and donations.
 - (8) ~~Cooperate~~ To cooperate with the Secretary and Department of Cultural Resources, the Secretary and Department of Transportation, the Secretary and Department of Environment, Health, and Natural Resources, and other governmental agencies, officials, and entities, and provide them with assistance and advice.
 - (9) ~~Adopt~~ To adopt and enforce such bylaws, rules, ~~regulations,~~ and guidelines that the Commission deems to be reasonably necessary in order to carry out its powers and duties. Chapter 150B of the General Statutes does not apply to the adoption of rules by the Commission.
 - (10) ~~Establish~~ To establish and maintain a "~~Roanoke Island Commission Fund~~" separate fund composed of moneys which may come into its hands from gifts, donations, grants, or bequests, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Commission may also establish a reserve fund to be maintained and used for contingencies and emergencies.
 - (11) By cooperative arrangement with other agencies, groups, individuals, and other entities, to coordinate and schedule historical and cultural events on Roanoke Island.
 - (12) Make recommendations to the Secretary of Cultural Resources concerning personnel and budgetary matters.
 - (13) ~~Acquire~~ To acquire real and personal property by purchase, gift, bequest, devise, and exchange.
 - (14) To administer the Roanoke Island Commission Fund and the Roanoke Island Commission Endowment Fund as provided in G.S. 143B-131.8.
- (b) ~~Contract Authority.~~ ~~The Commission may~~
- (15) To procure supplies, services, and property as appropriate and ~~may~~ to enter into contracts, leases, or other legal agreements consistent with

State laws and Department rules to carry out the purposes of this Part and duties of the Commission.”

(c) Part 27A of Article 2 of Chapter 143B of the General Statutes is amended by adding the following sections:

"§ 143B-131.8. Roanoke Island Commission Fund; Roanoke Island Commission Endowment Fund.

(a) The Roanoke Island Commission Fund is established as a nonreverting Fund and shall be administered by the Roanoke Island Commission. Seventy-five percent (75%) of the revenues collected from any property operated by the Roanoke Island Commission shall be credited to the Fund. In addition, gifts, donations, grants, or bequests received by the Commission for the purpose of carrying out its duties and purposes may also be deposited in the Fund.

The funds in the Roanoke Island Commission Fund shall be used for the expenses of the Roanoke Island Commission and the operation and maintenance of properties operated by the Commission.

(b) The Roanoke Island Commission Endowment Fund is established as a nonreverting Fund and shall be administered by the Commission. Twenty-five percent (25%) of the revenue collected from any property operated by the Roanoke Island Commission shall be credited to the Fund. Until July 1, 2000, the revenues credited to the Roanoke Island Commission Endowment Fund and the interest earned on the revenue shall be held in reserve to create the principal for the Fund.

On and after July 1, 2000, eighty percent (80%) of the interest generated by the principal in the Roanoke Island Commission Endowment Fund shall be used by the Roanoke Island Commission to carry out its duties and purposes as set out by this Part. The Roanoke Island Commission may also use those interest funds for capital expenditures for the properties operated by the Commission.

"§ 143B-131.9. Roanoke Island Commission staff.

The Commission shall appoint and fix the salary of an Executive Director to serve at its pleasure and may hire other employees. Employees of the Commission who were transferred from the Department of Cultural Resources as of July 1, 1995, and who were subject to the State Personnel Act, Chapter 126 of the General Statutes, at the time of the transfer shall continue to be subject to that act. Employees of the Commission who were transferred but were not subject to the State Personnel Act at the time of transfer are not subject to the State Personnel Act. Employees of the Commission who were not transferred are not subject to the State Personnel Act unless the Commission designates the employee's position as subject to the State Personnel Act when the employee is hired. Once designated, a position remains subject to the State Personnel Act unless exempted in accordance with that act.

"§ 143B-131.10. Exceptions.

Notwithstanding G.S. 143-28, the following provisions do not apply to this Part: G.S. 143-16.3 and G.S. 143-23."

(d) The personnel, personal property, and unexpended balances of appropriations, allocations, or other funds for the Elizabeth II State Historic Site and

Visitor Center, the Elizabeth II, and the Roanoke Island Commission are transferred from the Department of Cultural Resources to the Roanoke Island Commission.

(e) This section is effective upon ratification.

PART 13. STATE BOARD OF ELECTIONS

Requested by: Representatives Lemmond, Ives, Culpepper, Senators Warren, Gulley
**STATE BOARD OF ELECTIONS AUTHORITY TO SELL SOFTWARE FOR
CAMPAIGN REPORTING**

Sec. 13.1. (a) G.S. 66-58(c) as amended by Chapter 247 of the 1995 Session
Laws reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

- (1) The sale of products of experiment stations or test farms.
- (2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.
- (3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase 'operation of endowment funds' shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.
- (4) The operation of lunch counters by the Department of Human Resources as blind enterprises of the type operated on January 1, 1951, in State buildings in the City of Raleigh.
- (5) The operation of a snack bar and cafeteria in the State Legislative Building.

- (6) The maintenance by the prison system authorities of eating and sleeping facilities at units of the State prison system for prisoners and for members of the prison staff while on duty, or the maintenance by the highway system authorities of eating and sleeping facilities for working crews on highway construction or maintenance when actually engaged in such work on parts of the highway system.
- (7) The operation by penal, correctional or facilities operated by the Department of Human Resources or by the State Department of Agriculture, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting such inmates or clients, and other bona fide visitors.
- (8) The sale by the Department of Agriculture of livestock, poultry and publications in keeping with its present livestock and farm program.
- (9) The operation by the public schools of school cafeterias.
- (10) Sale by any State correctional or other institution of farm, dairy, livestock or poultry products raised or produced by it in its normal operations as authorized by the act creating it.
- (11) The sale of textbooks, library books, forms, bulletins, and instructional supplies by the State Board of Education, State Department of Public Instruction, and local school authorities.
- (12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.
- (13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of such management program.
- (14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.
- (15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State.
- (16) The performance by the Department of Transportation of dredging services for a unit of local government.
- (17) The sale by the State Board of Elections to political committees and candidate committees of computer software designed by or for the State Board of Elections to provide a uniform system of electronic filing of the campaign finance reports required by Article 22A of Chapter 163 of the General Statutes and to facilitate the State Board's monitoring of compliance with that Article. This computer software for electronic filing of campaign finance reports shall not exceed a cost of one hundred dollars (\$100.00) to any political committee or candidate committee without the State Board of Elections first notifying in writing the Joint Legislative Commission on Governmental Operations."

(b) The funds appropriated in this act to the State Board of Elections for the purchase of developing computer software to provide a uniform system of electronic filing of campaign finance reports shall be expended for development of software for use by the State Board of Elections and political committees or candidate committees.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Gulley
FUNDS FOR STATEWIDE COMPUTERIZED VOTER REGISTRATION.

Sec. 13.2. (a) The State Board of Elections shall promulgate rules for a statewide computerized voter registration system following the basic client-server design of Alternative C and D as described in the Needs Assessment and Requirements Analysis report prepared pursuant to Section 16 of Chapter 762 of the 1993 Session Laws, Regular Session 1994. Those rules shall include data format standards, data communication standards, and data content standards. The State Board of Elections shall promulgate those rules, including the standards, no later than July 1, 1996. Counties shall adhere to the rules and standards no later than July 1, 1997. The statewide computerized voter registration system shall utilize current technology and be consistent with State standards. That system shall be developed by the State Board of Elections and processed on the computer/servers of the State Information Processing Services Division of the Office of the State Controller.

(b) There are established two reserve funds, to be known as the Reserve Fund for Statewide Computerized Voter Registration/Central Server Component and the Reserve Fund for Statewide Computerized Voter Registration/County Grants Component. The reserve funds shall be funded as follows:

- (1) For the 1995-96 fiscal year, funds in the amount of one million five hundred thousand dollars (\$1,500,000) shall be transferred from the reserve fund created by Section 16(b) of Chapter 769 of the 1993 Session Laws, Regular Session 1994, to the Reserve Fund for Statewide Computerized Voter Registration/Central Server Component. The State Board of Elections shall use those funds for software development, communications and computer charges, and data conversion charges to implement the central server component of the system designed by the rules promulgated under subsection (a) of this section. The State Board of Elections shall use no more than four hundred forty thousand dollars (\$440,000) of those funds to purchase hardware, office furniture, and the services of time-limited computer personnel.
- (2) Of the funds appropriated in this act for the 1996-97 fiscal year to the State Board of Elections, the sum of three million five hundred thousand dollars (\$3,500,000) shall be deposited in the Reserve Fund for Statewide Computerized Voter Registration/County Grants Component, to be used by the State Board of Elections for grants-in-aid to counties to purchase computer equipment, data communication charges, data conversion, computer consultants or time-limited personnel at the State Board of Elections, travel, education, and

training to ensure that all counties' minimum needs for participation in the statewide computerized voter registration system are met. Any additional needs beyond the minimum required for system participation are the responsibility of the counties. The State Board of Elections shall develop and issue rules related to a grant process for grant applications and grant awards to counties. The rules shall be developed and issued no later than February 15, 1996. Grants-in-aid to county boards of elections shall be awarded no later than July 31, 1996. The rules shall provide that the computerized voter registration system has uniform quality statewide, and the grants shall be issued in such a way as to achieve that goal within available resources. In developing the rules, the State Board of Elections shall consider giving special attention to:

- a. Low-wealth counties;
- b. Counties that have demonstrated a willingness to invest in computer infrastructure; and
- c. Counties that demonstrate a willingness to provide matching funds.

(c) The State Board of Elections may spend money from the reserve funds created by subsection (b) of this section only after the State Board of Elections and the Information Resource Management Commission have jointly approved and presented a detailed implementation plan for statewide computerized voter registration to the Joint Legislative Commission on Governmental Operations. That implementation plan shall include:

- (1) A description of the system being implemented;
- (2) A description of the system's capabilities;
- (3) An itemized estimate of the costs of the system, with a justification for each item;
- (4) A list of the counties to be brought into the system during the fiscal year;
- (5) A project management plan.

After their initial joint report, the State Board of Elections and the Information Resource Management Commission shall make quarterly joint reports to the Joint Legislative Commission on Governmental Operations, describing the status of the project, listing the counties that have been brought into the system and that are planned to be brought into the system, and the costs.

(d) To the extent that this section or action taken under it conflicts with G.S. 163-82.11 through G.S. 163-82.13 or Section 16 of Chapter 769 of the 1993 Session Laws, this section or those actions prevail to the extent of the conflict. Except to the extent of the conflict, Section 16 of Chapter 769 of the 1993 Session Laws remains in effect.

PART 15. COLLEGES AND UNIVERSITIES

Requested by: Representatives Grady, Preston, Senators Plexico, Winner
MEHARRY MEDICAL COLLEGE

Sec. 15. The Board of Governors of The University of North Carolina shall develop and implement a plan to recruit and attract graduates of Meharry Medical College who are North Carolina residents for whom State financial support was provided to Meharry Medical College. The Board's plan shall include informing the students of the State support, providing information about medical residency opportunities in North Carolina, and any other relevant information about opportunities for medical and dental practice in North Carolina. The Office of Rural Health and the Area Health Education Centers shall assist the Board in developing and implementing the plan. The Board shall include State supported graduates of Meharry Medical College in its monitoring report required by G.S. 143-613(d) on primary care physicians. Meharry Medical College shall supply information necessary for the Board to comply with this section.

Requested by: Representatives Grady, Preston, Ramsey, Cummings, Senators Plexico, Winner, Conder

SCHOOL OF SCIENCE AND MATHEMATICS

Sec. 15.1. G.S. 116-235 (b) reads as rewritten:

"(b) Students. –

- (1) Admission of Students. – The School shall admit students in accordance with criteria, standards, and procedures established by the Board of Trustees. To be eligible to be considered for admission, an applicant must be a legal resident of the State, as defined by G.S. 446-143.1; ~~116-143.1(a)(1)~~; eligibility to remain enrolled in the School shall terminate at the end of any school year during which a student becomes a nonresident of the State. The Board of Trustees shall ensure, insofar as possible without jeopardizing admission standards, that an equal number of qualified rising high school juniors is admitted to the program and to the residential summer institutes in science and mathematics from each of North Carolina's congressional districts. In no event shall the differences in the number of rising high school juniors offered admission to the program from each of North Carolina's congressional districts be more than two and one-half percentage points from the average number per district who are offered admission.
- (2) School Attendance. – Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the School and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time which the School shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the School. Any person who aids or abets a student's unlawful absence from the School shall, upon conviction, be guilty of a Class 3 misdemeanor. The Director of the

School shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the Board of Trustees, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling.

- (3) Student Discipline. – Rules of conduct governing students of the School shall be established by the Board of Trustees. The Director, other administrative officers, and all teachers, substitute teachers, voluntary teachers, teacher aides and assistants, and student teachers in the School may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order."

Requested by: Representatives Fox, Grady, Preston, Senators Plexico, Winner, Kerr
UNC VISUAL IMPAIRMENT TEACHER TRAINING CURRICULUM

Sec. 15.2. (a) The Board of Governors of The University of North Carolina shall select a school of education from within The University of North Carolina and direct the school to establish an interstate consortium of universities located in the southeastern United States with the following purposes:

- (1) To collaboratively devise an appropriate curriculum for the training of teachers to work with visually impaired students.
- (2) To seek foundation grants to support the cooperative program of teacher education.
- (3) To work together in the implementation and operation of the program providing the needed training experiences for students from those states that become a part of the consortium.

(b) The school of education designated by the Board of Governors of The University of North Carolina to establish the interstate consortium shall try to recruit one university from each of the states in the southeastern United States. The program developed by the interstate consortium shall be operated at the school of education designated by the Board of Governors to undertake the project and shall utilize technology for long-distance learning within the State and among the other states in the consortium. The program shall be funded by all states participating in the consortium in addition to grants obtained by the consortium.

(c) The program designed by the consortium shall be implemented collaboratively with the North Carolina Department of Human Resources through the Division of Services for the Blind. The Governor Morehead School shall be used as a clinical site for the students in the program. The program shall be designed to meet certification requirements that are set by the licensing agencies in the states participating in the consortium. The program shall offer a masters degree in visual impairments and shall also offer courses for special education teachers to enable them to extend their certification to include visual impairments.

(d) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Commission by March 1, 1996, regarding the progress in implementing this section.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner, Hoyle
UNC CAPITAL IMPROVEMENT PRIORITIES

Sec. 15.3. (a) The Board of Governors of The University of North Carolina shall develop a capital improvement request process that can be used to make its capital priorities across campuses known to the General Assembly. This process shall include needs criteria based on mission, enrollment, adequacy of facilities, the functional age of the facilities, utilization of facilities and other objective factors.

(b) The Board of Governors shall report to the Joint Legislative Education Oversight Committee by April 1, 1996, regarding the development of the capital improvement request process.

Requested by: Representatives Grady, Preston, Rogers, Senators Plexico, Winner, Warren

ECU MEDICAL SCHOOL RECEIPTS

Sec. 15.4. Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-36.6. East Carolina University School of Medicine; Medicare receipts.

The East Carolina University School of Medicine shall request, on a regular basis consistent with the State's cash management plan, funds earned by the School from Medicare reimbursements for education costs. Upon receipt, these funds shall be allocated as follows:

- (1) The portion of the Medicare reimbursement generated through the effort and expense of the School of Medicine's Medical Faculty Practice Plan shall be transferred to the appropriate Medical Faculty Practice Plan account within the School of Medicine. The Medical Faculty Practice Plan shall assume responsibility for any of these funds that subsequently must be refunded due to final audit settlements.
- (2) The funds from this source budgeted by the General Assembly as part of the School of Medicine's General Fund budget code shall be credited to that code as a receipt.
- (3) The remainder of the funds shall be transferred to a special fund account on deposit with the State Treasurer. This special fund account shall be used for any necessary repayment of Medicare funds due to final audit settlements for funds allocated under subdivision (2) of this subsection. When the amount of these reimbursement funds has been finalized by audit for each year, those funds remaining in the special fund shall be available for specific capital improvement projects for the East Carolina University School of Medicine. Requests by East Carolina University for use of these funds shall be made to the Board of Governors of The University of North Carolina. Approval of projects by the Board of Governors shall be reported to the Joint Legislative Commission on Governmental Operations, and the reports

shall include projected costs and sources of funds for operation of the approved projects."

Requested by: Senators Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

STATE EDUCATION ASSISTANCE AUTHORITY/FEDERAL MATCHING FUNDS

Sec. 15.5. Funds appropriated in Chapter 324 of the 1995 Session Laws to the Board of Governors of The University of North Carolina for use by the State Education Assistance Authority to match federal grants under the Federal State Student Incentive Grant program shall remain available to assist needy students in meeting postsecondary education expenses irrespective of the receipt by the State Education Assistance Authority of any federal funds for such purpose. In the event federal funds are not available for such purposes, the eligibility for funds under this section shall be limited to resident students attending a constituent institution of The University of North Carolina, a community college as defined by G.S. 115D-2(2), or a private institution as defined by G.S. 116-22(1).

Requested by: Representatives Grady, Preston, Senators Perdue, Plexico, Rand, Winner, Odom, Plyler

MILITARY PERSONNEL/BUDGETING OF SUMMER SCHOOL CREDIT HOURS

Sec. 15.6. For State budget purposes, credit hours taken in summer school at a constituent institution of The University of North Carolina by military personnel as defined in G.S. 116-143.3(a) and G.S. 116-143.3(b) shall be budgeted as resident credit hours.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

REPORTS ON UNC VENDING FACILITIES

Sec. 15.7. G.S. 116-36.4 reads as rewritten:

"§ 116-36.4. Vending facilities.

~~The Board of Governors shall, not later than October 1 of each year, review an itemized annual report in a format to be determined by the Office of State Budget and Management. Each institution shall provide to the director of the Budget and the State Auditor such information as they may from time to time require concerning the use of net proceeds from operations of vending facilities for the previous fiscal year under G.S. 116-36.1. Net proceeds may be used only as authorized by the Board of Governors, but this section does not authorize expenditures for purposes not otherwise authorized by law. The report shall be itemized by campus and by authorized purpose. The Board shall also review an annual report from the UNC Hospitals, monitoring compliance with G.S. 143-12.1(f1). A copy of the report shall be provided to the Fiscal Research Division of the Legislative Services Office."~~

Requested by: Senators Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

ALLIED HEALTH PROFESSIONS

Sec. 15.8. Of the funds provided to the Board of Governors for expansion funding through receipts, the amount of one million seven hundred thousand dollars (\$1,700,000) each fiscal year of the biennium shall be allocated for expansion of program offerings and enrollment for training of allied health professionals.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Conder

AHEC/SCHOOL OF NURSING CENTERS

Sec. 15.9. Of the funds provided to the Board of Governors of The University of North Carolina for expansion funding through receipts for University Institutional Programs, the sum of two million dollars (\$2,000,000) shall be allocated each year of the biennium for the Area Health Education Centers for initiatives in primary care and training of mid-level practitioners. Of these additional funds, the sum of twenty-five thousand dollars (\$25,000) shall be used to increase funding for the Raleigh School of Nurse Anesthesia from fifty thousand dollars (\$50,000) to seventy-five thousand dollars (\$75,000) per year.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Conder

UNC PILOT OFF-CAMPUS SITES

Sec. 15.10. Of the funds provided to the Board of Governors of The University of North Carolina for expansion funding through receipts in this act, one million dollars (\$1,000,000) each fiscal year shall be used to establish pilot degree programs at sites located away from the campuses of the constituent institutions and to expand educational opportunities at those sites. The Board shall consider sites on community college campuses, especially those with a higher proportion of college transfer student enrollment, sites easily accessible to military personnel and other citizens, and sites remote from the constituent institutions' main campuses. Funds may be used to fund campuses for full-time equivalent enrollment at those sites, to improve library collections for the programs offered at the site, or for other purposes deemed appropriate by the Board.

The Board shall report to the Joint Education Oversight Committee on this effort by December 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Conder

AGRICULTURE EDUCATION PROGRAM FUNDS

Sec. 15.11. (a) Of the funds provided to the Board of Governors of The University of North Carolina, the sum of five hundred eighty-five thousand dollars (\$585,000) for the 1995-96 fiscal year and the sum of five hundred eighty-five thousand dollars (\$585,000) for the 1996-97 fiscal year shall be allocated to the College of

Agriculture and Life Sciences at North Carolina State University for personnel positions and related office and travel expenses to provide overall leadership, coordination, and structure for agricultural education programs and Future Farmers of America activities in the public schools of North Carolina.

(b) The positions in this section are:

- (1) A State Agricultural Education Coordinator, located in the Department of Agricultural and Extension Education at North Carolina State University;
- (2) Three Regional Consultants who are responsible to the State Agricultural Education Coordinator; and
- (3) A State Future Farmers of America Director, who is responsible to the State Agricultural Education Coordinator and the Board of Directors of the North Carolina Association of Future Farmers of America, Incorporated. The Executive Director and staff of the North Carolina Future Farmers of America Foundation are provided by the North Carolina Future Farmers of America Foundation, Incorporated, and the Director and staff of the North Carolina Future Farmers of America Center are provided by the North Carolina Association of Future Farmers of America, Inc.

(c) The Office of the Governor and the State Board of Education, the Superintendent of Public Instruction, and other State agencies responsible for vocational and technical education in the public schools shall maintain close working relationships with the State Agricultural Education Coordinator. The State Agricultural Education Coordinator and those agencies shall cooperate and collaborate to provide resources that will ensure quality agricultural education programs in the public schools.

Requested by: Senators Odom, Perdue, Plyler, Plexico, Rand, Winner, Representatives Grady, Preston, Cummings

SELECTION OF DISTINGUISHED PROFESSORS

Sec. 15.12. G. S. 116-41.18 is amended by adding a new subsection to read:

"(a1) No rule shall prevent the constituent institutions of The University of North Carolina from selecting holders of Distinguished Professorships from among existing faculty members or newly hired faculty members."

Requested by: Senators Martin of Guilford, Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

NORTH CAROLINA A & T STATE UNIVERSITY APPLIED MANUFACTURING AND EDUCATION CENTER

Sec. 15.13. Funds in the amount of three million five hundred thousand dollars (\$3,500,000) were appropriated in Section 6 of Chapter 561 of the 1993 Session Laws to the Board of Governors for the Applied Manufacturing and Education Center at North Carolina Agricultural and Technical State University. The remainder of those funds may be used by North Carolina Agricultural and Technical State University for

the 1995-96 fiscal year and for the 1996-97 fiscal year for capital, operating, and equipment expenses of the Piedmont Triad Center for Advanced Manufacturing.

All funds expended for equipment shall be for the Piedmont Triad Center for Advanced Manufacturing, and shall remain under the ownership of this entity or North Carolina Agricultural and Technical State University.

Requested by: Senator Rand

ACADEMIC ENHANCEMENT FUNDS

Sec. 15.15. (a) Notwithstanding G.S. 116-143, the Board of Trustees of a constituent institution designated as a Research University I campus of The University of North Carolina may increase tuition at the constituent institution by an amount not to exceed four hundred dollars (\$400.00) per full-time student per regular term academic year. All additional revenues derived from these tuition increases shall remain for use on that campus and are in addition to the operating budgets approved by the General Assembly. If the Board of Trustees of an institution increases tuition, the chancellor must allocate a minimum of thirty-five percent (35%) of the funds provided by the tuition increase for need-based financial aid. The balance of the funds may be allocated for faculty salaries or library budgets. Students who are already receiving need-based financial aid or who are eligible for need-based financial aid shall have their financial aid awards increased to cover the tuition increase allowed under this subsection. Funding for these financial aid increases shall be the top priority for use of the financial aid funds provided in this subsection, but any source of funds may be used to cover the tuition increases for students receiving need-based financial aid.

(b) Notwithstanding G.S. 116-143, the Board of Trustees of a constituent institution of The University of North Carolina which has a professional school (law, medicine, dentistry, pharmacy, and veterinary medicine) or masters degree in Business Administration may increase tuition for students in the professional school by an amount not to exceed three thousand dollars (\$3,000) per full-time nonresident student per regular term academic year or by an amount not to exceed four hundred dollars (\$400.00) per full-time resident student per regular term academic year. If the Board of Trustees of an institution increases tuition for students in a professional school, the funds provided by the increase shall remain on that campus and be used to enhance that professional school. In no case shall a student attending a professional school be subject to a tuition increase allowable under this section greater than the amounts stated in this subsection.

(c) Once a Board of Trustees decides to increase tuition at a constituent institution, the institution shall notify the Board of Governors, the Office of State Budget and Management, and the Fiscal Research Division of the amount of increase, additional receipts anticipated, and the allocation of the funds among various programs in a format prescribed by the Board of Governors of The University of North Carolina.

(d) No employee of the University of North Carolina System who earns one hundred thousand dollars (\$100,000) or more a year shall receive additional remuneration from these funds.

Requested by: Senators Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

UNC/UNIFORM REVERSION RATE

Sec. 15.16. G.S. 116-30.3 reads as rewritten:

"§ 116-30.3. Reversions.

(a) ~~Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each budget code of a special responsibility constituent institution at the close of a fiscal year, institution, except for the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than the percentage of the General Fund appropriations historically reverted to the State treasury over the preceding five fiscal years, multiplied by the General Fund appropriations for that budget code, two percent (2%) of the General Fund appropriation for that fiscal year may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. Of the General Fund current operations appropriations credit balance remaining in the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than one percent (1%) of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The historic reversion percentage shall be determined by the Director of the Budget, after making adjustments for allotment reductions made to meet revenue shortfalls and to force credit balances during the preceding five fiscal years under the authority set forth in G.S. 143-25. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.~~

(b) ~~Any special responsibility constituent institution that does not revert a percentage of the General Fund appropriations for the budget code equal to the five year historic reversion rate established in this section. An institution shall cease to be a special responsibility constituent institution under the following circumstances:~~

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

~~unless the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions. In this instance, However, if the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions, the Board may allow the institution to remain a special responsibility constituent institution for one year to~~

come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations."

Requested by: Senators Plexico, Winner, Hoyle, Conder, Representatives Grady, Preston, Cummings

UNC MISSION

Sec. 15.17. G.S. 116-1 reads as rewritten:

"§ 116-1. Purpose.

(a) In order to foster the development of a well-planned and coordinated system of higher education, to improve the quality of education, to extend its benefits and to encourage an economical use of the State's resources, the University of North Carolina is hereby redefined in accordance with the provisions of this Article.

(b) The University of North Carolina is a public, multicampus university dedicated to the service of North Carolina and its people. It encompasses the 16 diverse constituent institutions and other educational, research, and public service organizations. Each shares in the overall mission of the university. That mission is to discover, create, transmit, and apply knowledge to address the needs of individuals and society. This mission is accomplished through instruction, which communicates the knowledge and values and imparts the skills necessary for individuals to lead responsible, productive, and personally satisfying lives; through research, scholarship, and creative activities, which advance knowledge and enhance the educational process; and through public service, which contributes to the solution of societal problems and enriches the quality of life in the State. In the fulfillment of this mission, the university shall seek an efficient use of available resources to ensure the highest quality in its service to the citizens of the State.

Teaching and learning constitute the primary service that the university renders to society. Teaching, or instruction, is the primary responsibility of each of the constituent institutions. The relative importance of research and public service, which enhance teaching and learning, varies among the constituent institutions, depending on their overall missions."

Requested by: Senator Plexico

UNC-ASHEVILLE/KELLOGG CENTER FUNDS

Sec. 15.18. Of the funds appropriated to the Board of Governors of The University of North Carolina for capital improvements the sum of five hundred thousand dollars (\$500,000) for the 1995-96 fiscal year shall be used for the Kellogg Center at the University of North Carolina at Asheville as a repository of mountain crafts.

Requested by: Senators Kerr, Winner, Plexico, Conder, Representatives G. Wilson, Sherrill, Grady, Preston, Cummings

NCSU FORESTRY GENETICIST FUNDS

Sec. 15.19. Of the funds provided through receipts to the Board of Governors of The University of North Carolina the sum of one hundred fifty thousand dollars (\$150,000) for the 1995-96 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 1996-97 fiscal year shall be used for North Carolina State University to establish and maintain a forestry geneticist position and support services dedicated to the development and use of the best genetic stock from the North Carolina Christmas tree industry. The purpose of this appropriation is to serve the Christmas tree industry in all regions of the State.

Requested by: Senators Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

UNC TELEVISION TOWER REPAIR FUNDS

Sec. 15.20. Of the funds allocated to the Board of Governors of The University of North Carolina in Section 5.3 of Chapter 324 of the 1995 Session Laws for the 1995-96 fiscal year, at least five hundred thousand dollars (\$500,000) shall be used to repair the University of North Carolina television tower in Columbia.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner

TECHNOLOGY TRAINING FUNDS TO SUPPORT EDUCATION

Sec. 15.21. Of the funds provided to the Board of Governors of The University of North Carolina for expansion funding through receipts, the sum of one million five hundred thousand dollars (\$1,500,000) for computing and technology in 1995-96 shall be used for technology equipment in schools of education to support technology training efforts in the public schools.

PART 16. COMMUNITY COLLEGES

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

CONTINUING BUDGET CONCEPT MODIFIED

Sec. 16.1. The State Board of Community Colleges shall implement the continuing budget concept for the 1995-97 biennium and in subsequent years as follows:

- (1) Community colleges that experience a decline in enrollment shall not receive a decrease in full-time equivalent student (FTE) enrollment funds until their enrollment declines more than five percent (5%). At that time, they shall experience a decline of only the amount over five percent (5%);
- (2) Community colleges that experience an increase in enrollment shall not receive an increase in full-time equivalent student (FTE) enrollment funds until their enrollment increases more than three percent (3%). At that time, they shall experience an increase of only the amount over three percent (3%).

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Conder

FUNDS FOR "RETOOLING FOR THE YEAR 2000: GAINING THE COMPETITIVE EDGE"

Sec. 16.3. The funds appropriated in this act for the North Carolina Community College System shall be used to implement the provisions of G.S. 115D-8, "Retooling for the Year 2000: Gaining the Competitive Edge". These funds shall be for the following priorities in order to improve the ability of citizens to be competitive in the global economy:

- (1) Improve training programs in high job demand skill areas;
- (2) Enhance allied health programs, including nursing, physical, occupational, and respiratory therapy, and increase the number of trained students in these fields;
- (3) Provide more technology education in order to ensure that all students are technologically proficient in today's workplace. More infrastructure, equipment, and highly trained faculty will be needed in this area;
- (4) Increase short-term skill enhancement training through improved occupational extension training programs;
- (5) Provide funds for high cost programs;
- (6) Develop more "workplace literacy" programs at job sites in order to improve job security and advancement opportunities for workers;
- (7) Provide more customized training for existing industries through the expansion of Focused Industrial Training (FIT) Centers;
- (8) Improve opportunities for faculty to keep up-to-date with the latest technological changes in their fields by funding more professional development and return-to-industry programs; and
- (9) Enhance all associate degree programs and facilitate the transfer of students with associate degrees pursuing baccalaureate degrees.

The State Board of Community Colleges shall adopt the "Education Blueprint" in accordance with G.S. 115D-8 and shall continue to provide its "Critical Success Factors" document in order to provide the General Assembly with the accountability for the expenditure of funds for the "Retooling for the Year 2000" programs.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

RECEIPT ADJUSTMENT

Sec. 16.4. The Office of State Budget and Management and the Department of Community Colleges shall adjust annual tuition receipts for full-time equivalent students to reflect actual collections from the previous year, but shall not reduce the total requirements in their budget requests to the General Assembly.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on an annual basis on the cost of the tuition and fee exemptions established in G.S. 115D-5(b).

Requested by: Senators Perdue, Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

MISSION OF THE COMMUNITY COLLEGE SYSTEM

Sec. 16.7. (a) The General Assembly hereby designates the North Carolina Community College System as the primary lead agency for delivering job training, literacy, and adult education programs in the State. The State Board of Community Colleges shall study the facility and equipment needs of the System in order to fulfill this role. In addition, the Community College System shall develop strategies for cooperating with other State agencies in the delivery of workforce preparedness services.

(b) The Governor shall direct all State agencies to compile an inventory of all State and federal funds in their budgets for workforce preparedness and to prepare a plan for cooperating with the Community College System in the delivery of these programs.

(c) The results of the studies, inventories, and plans listed in subsections (a) and (b) of this section shall be reviewed by the State Education Cabinet and reported to the Joint Legislative Education Oversight Committee by March 15, 1996.

(d) If the United States Congress consolidates workforce preparedness programs into a block grant, it is the intent of the General Assembly for the Community College System to be the primary provider of job training, literacy, and adult education programs and services.

(e) Nothing in this section shall affect the authority of the Governor to act as the grant recipient for the receipt of federal funds.

PART 17. PUBLIC SCHOOLS

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

EXCEPTIONAL CHILDREN FUNDS

Sec. 17. (a) The funds appropriated for exceptional children in Chapter 324 of the 1995 Session Laws shall be allocated as follows:

- (1) Each local school administrative unit shall receive for academically gifted children the sum of \$680.21 per child for three and nine-tenths percent (3.9%) of the 1994-95 actual average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 44,609 for the 1995-96 school year.
- (2) Each local school administrative unit shall receive for exceptional children other than academically gifted children the sum of \$2,040.63 per child for the lesser of (i) all children who are identified as exceptional children other than academically gifted children or (ii) twelve and five-tenths percent (12.5%) of the 1994-95 actual average

daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 131,642 for the 1995-96 school year.

- (3) Each local school administrative unit in which more than twelve and five-tenths percent (12.5%) of the 1994-95 actual average daily membership are identified as exceptional children other than academically gifted children shall receive \$427.35 per child in excess of the twelve and five-tenths percent (12.5%). These funds shall be used only for nonrecurring expenditures and other expenditures for exceptional children other than academically gifted children that do not impose future obligations on the State or local governments.

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

(b) The State Board of Education shall transfer part of these funds to a new allotment category for central office administrators, in accordance with the provisions of Chapter 450 of the 1995 Session Laws.

(c) The State Board of Education shall evaluate and review (i) the current process and criteria for designating students as children with special needs and (ii) the adequacy of State funding for children with special needs. The State Board shall report the results of its evaluation and review to the Joint Legislative Education Oversight Committee prior to March 15, 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

Sec. 17.1. (a) **Funds for supplemental funding.** – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, of the funds appropriated to Aid to Local School Administrative Units, the sum of forty-one million four hundred eighty-three thousand eight hundred nine dollars (\$41,483,809) for the 1995-96 fiscal year and the sum of (\$41,483,809) for the 1996-97 fiscal year shall be used for supplemental funds for schools.

(b) **Use of funds for supplemental funding.** – Local school administrative units shall use funds received pursuant to this section only to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, instructional supplies and equipment, staff development, and textbooks; Provided, however, local school administrative units may also use up to ten percent (10%) of these funds for salary supplements for instructional personnel and instructional support personnel.

(c) **Definitions.** – As used in this section:

- (1) "Anticipated county property tax revenue availability" means the county adjusted property tax base multiplied by the effective State average tax rate.

- (2) "Anticipated total county revenue availability" means the sum of the
 - a. Anticipated county property tax revenue availability,
 - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
 - c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
 - d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
 - e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277A,
 - f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-213 and G.S. 105-213.1, and
 - g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.
- (6) "County adjusted property tax base" shall be computed as follows:
 - a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
 - b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
 - c. Add to the resulting amount the:
 1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
 2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
 3. Personal property value for the county.
- (7) "County adjusted property tax base per square mile" means the county adjusted property tax base divided by the number of square miles of land area in the county.

- (8) "County wealth as a percentage of State average wealth" shall be computed as follows:
 - a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
 - b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
 - c. Compute the percentage that the county adjusted property tax base per square mile is of the State adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
 - d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
- (9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
- (10) "Effective State average tax rate" means the average of effective county tax rates for all counties.
- (10a) For the 1995-96 fiscal year, "local current expense funds" means the most recent county current expense appropriations to public schools, as reported by counties in the annual county financial information report to the State Treasurer. For the 1996-97 fiscal year, "local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.
- (12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (13) For the 1995-96 fiscal year, "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by counties in the annual county financial information report to the State Treasurer. For the 1996-97 fiscal year, "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

- (14) "State average adjusted property tax base per square mile" means the sum of the county adjusted property tax bases for all counties divided by the number of square miles of land area in the State.
- (14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(d) **Eligibility for funds.** – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

(e) **Allocation of funds.** – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit, located in whole or in part in the county, based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

(f) **Formula for distribution of supplemental funding pursuant to this section only.** – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties 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 low-wealth counties.

(g) **Minimum effort required.** – A county that (i) maintains an effective county tax rate that is at least one hundred percent (100%) of the effective State average tax rate in the most recent year for which data are available or (ii) maintains a county

appropriation per student to the school local current expense fund of at least one hundred percent (100%) of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools, shall receive full funding under this section. A county that maintains a county appropriation per student to the school local current expense fund of less than one hundred percent (100%) of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools shall receive funding under this section at the same percentage that the county's appropriation per student to the school local current expense fund is of the current expense appropriations per student to the school local current expense fund that the county could provide given the county's wealth and an average effort to fund public schools.

(h) **Nonsupplant requirement.** – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1995-97 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and
- (2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

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

(i) **Reports.** – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1996, on its analysis of whether counties supplanted funds.

(j) **Department of Revenue reports.** – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Sec. 17.2. (a) **Funds for small school systems.** – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from 3,150 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or less.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least one hundred fifty thousand dollars (\$150,000), excluding textbooks.
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

(b) **Nonsupplant requirement.** – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1995-97 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

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

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

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

- (1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.
- (2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.
- (2a) For the 1995-96 fiscal year, "local current expense funds" means the most recent county current expense appropriations to public schools, as reported by counties in the annual county financial information report to the State Treasurer. For the 1996-97 fiscal year, "local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.
- (4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall

be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(e) **Reports.** – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1996, on the results of its analysis of whether counties supplanted funds.

Requested by: Senators Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

SCHOOL TECHNOLOGY RESERVE

Sec. 17.3. The funds in the amount of forty-two million dollars (\$42,000,000) appropriated for the 1994-95 fiscal year to the Office of State Budget and Management, School Technology Reserve, are transferred to the State Board of Education, State School Technology Fund. These funds shall be allocated by the State Board of Education to the credit of local school administrative units as follows:

- (1) Ten percent (10%) of these funds shall be allocated in accordance with the low-wealth county supplemental school funding formula set out in Section 138 of Chapter 321 of the 1993 Session Laws, as rewritten by Section 19.32 of Chapter 769 of the 1993 Session Laws; and
- (2) Ninety percent (90%) of these funds shall be allocated on the basis of average daily membership: Provided, however, the State Board shall use part of these funds, as necessary, to ensure that the sum total of the allocations to all of the local school administrative units located within each county is at least \$50,000.

Before a local school technology plan is approved by the State Board of Education, a local board of education may use up to ten percent (10%) of the funds credited to it in the Fund to develop its local school technology plan or, to the extent that these funds are not needed to develop the local school technology plan, for staff development to improve the use of instructional technology. After a local school technology plan is reviewed by the Department of Public Instruction and the Information Resources Management Commission and approved by the State Board of Education, a local board of education may use the remainder of these funds for nonpersonnel expenses to implement its local school technology plan, including staff development, hardware, software, networks, maintenance contracts, and school facility modifications necessary for the installation of equipment.

Two or more local school administrative units may jointly expend funds to develop their individual local school technology plans, for staff development, or to implement their individual local school technology plans.

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

LITIGATION RESERVE

Sec. 17.4. (a) Funds appropriated to the Department of Public Instruction for the 1994-95 fiscal year for the Litigation Reserve that are not expended or encumbered on June 30, 1995, are transferred to the State Board of Education. These funds shall not revert on July 1, 1995, but shall remain available for expenditure until June 30, 1997.

(b) The State Board of Education may expend up to five hundred thousand dollars (\$500,000) for the 1995-96 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

(c) Subsection (a) of this section becomes effective June 30, 1995.

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

EDUCATION EXPENDITURE REPORT DUE DATE

Sec. 17.5. G.S. 105-503(b) reads as rewritten:

"(b) On or before ~~February 15~~ May 1 of each year the Local Government Commission shall furnish to the General Assembly a report of the level of each county's appropriations for public school capital outlay (including retirement of indebtedness incurred and monies reserved for these purposes), include the amount each county has provided for public school capital outlay for a period including at a minimum the most recent five fiscal years, estimates of public school facility needs, the proportion of revenue from taxes collected under Article 40 of this Chapter that has been provided for public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), the proportion of revenue collected under this Article that has been expended for a public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), and any other factors it deems relevant to carrying out the intent stated in subsection (a) of this section."

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

ELIMINATION OF OBSOLETE REPORTS ON MAINTENANCE CONTRACTS; EXCHANGE OF INFORMATION WITHIN STATE EDUCATION AGENCIES

Sec. 17.6. (a) Section 38(b) of Chapter 500 of the 1989 Session Laws is repealed.

(b) Section 6 of Chapter 880 of the 1991 Session Laws reads as rewritten:

"Sec. 6. A joint report of progress made to develop a system to provide an exchange of information shall be made to the Joint Legislative Education Oversight Committee no later than February 15, ~~1993~~, and annually thereafter. 1996."

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

EXPANSION BUDGET APPROPRIATIONS OF SAVINGS FROM THE REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION

Sec. 17.7. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education shall allocate the sum of nine million three hundred eighteen thousand four hundred thirty-six dollars (\$9,318,436) for the 1995-96 fiscal year and the sum of ten million six hundred sixty-five thousand two hundred twenty dollars (\$10,665,220) for the 1996-97 fiscal year to local school administrative units. Of these funds:

- (1) The sum of \$3,000,000 for the 1995-96 fiscal year and the sum of \$3,000,000 for the 1996-97 fiscal year shall be used for textbooks;
- (2) The sum of \$6,318,436 for the 1995-96 fiscal year and the sum of \$7,665,220 for the 1996-97 fiscal year shall be used to reduce the funded allotment ratio to one teacher for every 23 students in first grade.

Requested by: Senators Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

MODIFICATION OF TRANSFER FUNDS FOR TACS TO LOCAL SCHOOL ADMINISTRATIVE UNITS

Sec. 17.8. Section 17.7 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 17.7. Effective July 1, 1996, the State Board of Education shall reallocate funds from Technical Assistance Centers to local school administrative units in accordance with a formula adopted by the State ~~Board~~. Board: Provided, however, if all of the local school administrative units in the service area of a Technical Assistance Center agree on a plan for use of funds allocated to that Technical Assistance Center, the State Board of Education may reallocate the funds for that Technical Assistance Center on such earlier date as the State Board of Education may determine is appropriate. Local boards of education may use these funds to contract with Technical Assistance Centers, contract with other entities, hire personnel, or otherwise acquire staff development, training, planning, and other forms of technical assistance.

The Technical Assistance Centers shall remain a part of the Department of Public Instruction but shall be funded solely by receipts from local boards of education and from other non-State sources. If no such funds are available for a Technical Assistance Center, that Center shall be abolished or consolidated with another Center by the State Board. The State Board shall establish a management structure for the Technical Assistance Centers that enables superintendents, principals, and teachers from the local school administrative units to be served by the Centers to have input into the priorities and personnel decisions at the Centers."

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

ALTERNATIVE LEARNING PROGRAMS

Sec. 17.9. (a) G.S. 115C-238.41(c)(3)d. reads as rewritten:

"d. Alternative Learning Program Model. – An Alternative Learning Program is a program that ~~provides~~ serves students at any level, serves suspended or expelled students, serves students whose learning styles are better served in an alternative program, or is designed to use multiple strategies, which serve students in the standard classroom or provide individualized programs outside of a standard classroom setting in a caring atmosphere in which students learn the skills necessary to redirect their lives and return to a standard classroom setting. ~~The~~ A program should maintain State standards and may include smaller classes and lower student/teacher ratios, school-to-work transition activities, modification of curriculum and instruction to meet individual needs, flexible scheduling, and necessary academic, vocational, and support services for students and their families. A program also may be provided under contract with a local, private, nonprofit 501(c)(3) corporation. ~~Services may~~ may include appropriate measures to correct disruptive behavior, teach responsibility, good citizenship, and respect for rules and authority.

An alternative learning program should have a well-defined mission, offer appropriate educational opportunities, and hold high expectations for staff and students. The goals of the program should target ~~The goals of the alternative school programs should be to~~ (i) reduce the school dropout rate ~~reducing school dropout rates through improved student attendance, behavior, and educational achievement;~~ and (ii) achievement. When appropriate, programs should increase successful school-to-work transitions for students through educationally linked job internships, mentored job shadowing experiences, and the development of personalized education and career plans for participating students."

(b) G.S. 115C-238.41(c) is amended by adding a new subdivision to read:

"(8) The process to be followed if students may be referred and placed on an involuntary basis into alternative learning programs in connection with suspension or expulsion. This process shall be based on model guidelines developed by the State Board of Education."

(c) G.S. 115C-238.43 reads as rewritten:

"§ 115C-238.43. Award of grants.

(a) In selecting grant recipients, the State Board shall consider (i) the recommendations of the Superintendent, (ii) the geographic location of the applicants, and (iii) the demographic profile of the applicants. After considering these factors, the State Board shall give priority to grant applications that will serve areas that have a high incidence of juvenile crime and that propose different approaches that can serve as models for other communities.

The State Board shall select the grant recipients prior to July 15, 1994, for local programs that will be in operation at the beginning of the 1994-95 school year. The State Board shall select the grant recipients prior to October 1, 1994, for local programs that will be in operation after the beginning of the 1994-95 school year.

(b) Notwithstanding subsection (a) of this section, in awarding grants for alternative learning programs for the 1995-96 school year, the State Board shall give preference to local school administrative units with low numbers of alternative learning programs relative to average daily membership or high incidences of juvenile crime."

(d) G.S. 115C-238.47 reads as rewritten:

"§ 115C-238.47. Program evaluation; reporting requirements.

(a) ~~The Department of Public Instruction~~ State Board of Education shall develop and implement an evaluation system, ~~under the direction of the State Board of Education,~~ system that will assess the efficiency and effectiveness of the Intervention/Prevention Grant Program. ~~The Department~~ State Board shall design this system to:

- (1) Provide information to local program administrators and teachers, ~~the Department~~ State Board, and to the General Assembly on how to improve and refine the programs;
- (2) Enable local program administrators and teachers, ~~the Department~~ State Board, and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;
- (3) Enable the ~~Department~~ State Board and the General Assembly to determine whether to modify the Intervention/Prevention Grant Program; ~~and~~
- (4) Provide a detailed fiscal analysis of how State funds for these programs were ~~used~~ used; ~~and~~
- (5) Evaluate over a five-year period, beginning with the 1995-96 school year, the success of, the quality of educational opportunities that are offered in, and the effectiveness of alternative learning programs in the public schools.

(a1) Before its annual report on February 15, 1996, and annually thereafter, the Board shall provide an opportunity for local program administrators, and particularly alternative learning program administrators and educators, to comment on the evaluation system. The Board shall consider these comments in any proposed modification to the system.

(b) The State Board of Education shall report to the General Assembly and the Joint Legislative Education Oversight Committee by May 15, 1994, on its progress in developing the evaluation system and in developing and implementing the program. It shall report prior to February 1, 1995, on the evaluation system ~~developed by the Department~~ and on program implementation. The State Board of Education shall present an annual report on ~~October 1, 1995,~~ February 15, 1996, and annually thereafter to the General Assembly and to the Joint Legislative Education Oversight Committee on (i) the implementation of the program, (ii) the results of the program evaluation, (iii) how the funds appropriated by the General Assembly for the program are being used,

(iv) additional funds required to implement the program, ~~and~~ (v) any necessary modifications to the ~~program~~ program, and (vi) comments received from local program administrators, and particularly alternative learning program administrators and educators, concerning the evaluation system and the program generally."

(e) The State Board of Education shall convene an Alternative Educators Planning Group of up to 15 outstanding practicing alternative school educators so that they may define the needs for technical assistance and training for alternative school educators and determine how to best meet those needs. The educators shall represent the geographic, racial, and gender diversity of the State and shall include administrators, teachers, and counselors. The State Board shall solicit the recommendations of alternative school educators to determine the membership of the group. The educators shall elect a chairperson from among the group and shall determine a meeting schedule to suit their needs. The State Board shall provide meeting space and clerical assistance. The Planning Group shall report the plan for service to the State Board of Education and the Joint Legislative Education Oversight Committee no later than February 1, 1996, at which time the Planning Group shall terminate, though nothing in this act shall prevent the group from continuing to meet on a voluntary basis. Members of the Alternative Educators Planning Group shall receive per diem, subsistence, and travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as appropriate.

Based on the technical assistance and training needs identified by the Alternative Educators Planning Group, the State Board of Education shall coordinate the efforts of its specialists and, to the extent possible, of specialists in other public and private agencies to provide coordinated assistance to alternative learning programs in local school administrative units. The specialists should include, but are not limited to, those in the areas of dropout prevention, drug abuse prevention, in-school suspension, and children with special needs.

(f) The State Board of Education shall study the issue of referral and placement of students into alternative learning programs and shall develop model guidelines that local school administrative units may use for the referral and placement of students into alternative learning programs. In developing these guidelines, the Board shall consider the different methods of referral, whether placement in the programs is voluntary or mandatory, and any due process or other legal issues that may apply. In developing these guidelines, the Board shall consult with the Alternative Educators Planning Group created in subsection (e) of this section, shall solicit comments from other alternative school educators in the State, and may consult with representatives of the North Carolina School Boards Association and other professional education organizations. The Board shall develop and disseminate the model guidelines to local school boards no later than February 1, 1996. The local school boards shall then disseminate these guidelines to their alternative learning programs.

(g) The funds appropriated in this act for the 1995-96 fiscal year to State Aid to Local School Administrative Units for alternative learning programs shall be used for start-up costs for new or expanded programs to implement alternative learning programs. These funds shall be available to a local school administrative unit for one year only.

Of these funds, up to two hundred thousand dollars (\$200,000) may be used by the State Board of Education to implement this section, including the evaluation of alternative learning programs.

(h) The funds appropriated in this act for the 1996-97 fiscal year to State Aid to Local School Administrative Units for alternative learning programs shall be used by the State Board to increase the Alternative Schools/At-Risk Student Allotment.

Of these funds, up to two hundred thousand dollars (\$200,000) may be used by the State Board of Education to implement this section, including the evaluation of alternative learning programs.

(i) The State Board of Education, working with local school administrative units, shall develop a plan to provide access to alternative schools for secondary students in all local school administrative units. In developing the plan, the State Board shall consider redirecting existing funds for dropout prevention, including federal funds, intervention/prevention grant funds, and other State funds.

Requested by: Senators Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

SCHOOL-BASED INCENTIVE AWARD FUNDS

Sec. 17.10. (a)—The State Board of Education shall use funds appropriated for the 1995-96 fiscal year for school-based awards to establish a school-based incentive award pilot program in up to 10 local school administrative units. The State Board of Education may include all or part of the schools in a local school administrative unit.

(b) The State Board shall set goals for individual schools in local school administrative units participating in the pilot program. Individual schools that exceed those goals shall receive incentive grants in amounts set by the State Board.

A school may use these incentive funds in accordance with a plan that has been:

- (1) Developed by the school improvement team;
- (2) Submitted to the principal, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to that school for their review and vote in the same manner that a school improvement plan is approved under G.S. 115C-238.3(b1); and
- (3) Approved by the local board of education.

The local board of education shall approve the plan developed by the school unless the plan involves expenditures of funds that are not for a public purpose or that are otherwise unlawful.

(c) The State Board of Education shall report plans for expanding the School-Based Award Program on a statewide basis to the Joint Legislative Education Oversight Committee by January 15, 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

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

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

- (1) Two hundred thirty thousand seven hundred seventy-six dollars (\$230,776) for the 1995-96 fiscal year shall be used to pay for the National Board for Professional Teaching Standards (NBPTS) participation fee and for up to three days of approved paid leave for teachers participating in the NBPTS program during the 1995-96 school year for State-paid teachers who (i) have completed three years of teaching in North Carolina schools operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina, or affiliated with The University of North Carolina, prior to application for NBPTS certification, and (ii) who have not previously received State funds for participating in any certification area in the NBPTS program. Teachers participating in the program shall take paid leave only with the approval of their supervisors.

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

- (2) Two hundred forty-five thousand five hundred eighty-two dollars (\$245,582) shall be used for an annual bonus of four percent (4%) of the teacher's State-paid salary for the 10-month school year for State-paid teachers who (i) completed three years of teaching in North Carolina schools operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina prior to application for NBPTS certification and (ii) complete the NBPTS certification process. The bonus for each fiscal year shall be paid at the end of each full school

year that the teacher teaches full time in a North Carolina school operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina. Teachers shall continue this bonus only as long as they retain NBPTS certification.

Requested by: Senators Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

FUNDS TO REDUCE CLASS SIZE IN GRADE 1

Sec. 17.12. The funds appropriated in this act to reduce class size in first grade shall be allocated by the State Board of Education to local school administrative units on the basis of one teacher for every 23 students in first grade. Local school administrative units shall use these funds (i) to reduce class size in first grade to 23 or fewer students or (ii) to hire reading teachers within kindergarten through third grade or otherwise reduce the student-teacher ratio within kindergarten through third grade.

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

Requested by: Senators Albertson, Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

TEACHER VACATION LEAVE FOR ADOPTIVE PARENTS

Sec. 17.13. G.S. 115C-302 is amended by adding a new subsection to read:

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

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

Requested by: Senators Perdue, Plexico, Winner, Conder, Representatives Grady, Preston, Cummings

CONTINUE MORATORIUM ALGEBRA I RULE

Sec. 17.14. Section 3 of Chapter 371 of the 1995 Session Laws reads as rewritten:

"Sec. 3. This act is effective upon ratification, and expires on June 30, 1997. ratification."

Requested by: Representatives Grady, Preston, Cummings, Senators Perdue, Ballance, Winner, Plexico, Conder

RESERVE FOR EDUCATION PURPOSES/USES OF FUNDS

Sec. 17.15. The Director of the Budget shall allocate funds transferred to the Reserve for Education Purposes pursuant to Section 27.10A1 of this act as follows:

- (1) Two-thirds of the funds shall be allocated to the State Board of Education. These funds shall be allocated by the State Board of

Education to the credit of local school administrative units for textbooks and the State School Technology Fund.

- (2) One-third of the funds shall be allocated to the Department of Community Colleges. The State Board of Community Colleges shall allocate these funds to community colleges for equipment and technology.

Requested by: Senators Perdue, Winner, Plexico, Conder, Representatives Grady, Preston, Cummings

PUBLIC SCHOOL PLAN

Sec. 17.16. The State Board of Education shall develop a plan to coordinate its vocational and technical education and job-training efforts with the Community College System. The plan shall include a review of the public schools' facility and equipment needs specifically related to vocational and technical education and job training and an outline of necessary modifications to existing public school policies. The State Board shall submit the results of its study for review to the State Education Cabinet. After that review, the State Board shall report the results of its study to the Joint Legislative Education Oversight Committee by December 1, 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Winner, Plexico, Conder

SCHOOL TRANSPORTATION FORMULA

Sec. 17.17. Of the funds appropriated to Aid to Local School Administrative Units for the 1995-96 fiscal year for public school transportation, the State Board of Education may use up to two hundred fifty thousand dollars (\$250,000) to review the formula used to allocate funds for public school transportation and to assist local school administrative units in improving the efficiency of their transportation systems.

PART 18. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Barbee, Bowie, Culpepper, Senator Hoyle

NORTHEASTERN REGIONAL AIRPORT MATCHING FUNDS

Sec. 18. Of the funds appropriated in the Continuation Budget Operations Appropriations Act of 1995 to the Department of Commerce for allocation to the Northeast North Carolina Regional Economic Development Commission, the sum of one hundred twenty-five thousand dollars (\$125,000) in each fiscal year shall be transferred to the Department of Transportation for allocation as a local match for projects at the Northeastern Regional Airport in Edenton.

Funds used as a local match shall be used for projects that have been approved by the Northeastern Regional Airport Commission and have been included in the transportation improvement plan adopted by the Board of Transportation.

The State-local fund matching limitations contained in Article 7 of Chapter 63 of the General Statutes shall not apply to the State funds used as a local match pursuant to this section.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO
STUDY LIENS ON TOWED AND STORED VEHICLES**

Sec. 18.1. The Joint Legislative Transportation Oversight Committee shall study the enforcement of liens on motor vehicles that have been towed and stored, including the following issues:

- (1) Whether the time period after which a lien can be satisfied on a motor vehicle for unpaid repair, towing, or storing charges should be shortened, and whether any other time periods relating to liens on towed and stored motor vehicles should be shortened;
- (2) Whether the amount of time that a vehicle can be left on the property of another person, including a business engaged in automobile repair, towing, or storage, before that vehicle is considered to be abandoned should be shortened;
- (3) Whether the cost of towing should be included in the amount of a lien;
- (4) Whether new procedures should be established for disposal of low-value vehicles to satisfy liens;
- (5) Whether the last registered owner of an abandoned vehicle that has been towed and stored should be charged with a traffic offense, should be liable for any restitution, or should be penalized in any other manner; and
- (6) Other issues related to the towing and storage of motor vehicles and liens on those vehicles.

The Joint Legislative Transportation Oversight Committee shall report the results of this study, including any legislative recommendations, to the 1995 General Assembly, Regular Session 1996.

Requested by: Representatives Barbee, Bowie, Sherrill, Senator Hoyle

**DEPARTMENT OF TRANSPORTATION TO PROVIDE CONSTRUCTION
AND MAINTENANCE SERVICES AT THE GOVERNOR'S WESTERN
RESIDENCE**

Sec. 18.2. G.S. 136-18(13) reads as rewritten:

- "(13) The Department of Transportation is ~~authorized and empowered to~~ may construct and maintain all walkways and driveways within the Mansion Square in the City of Raleigh and the Western Residence of the Governor in the City of Asheville including the approaches connecting with the city streets, and any funds expended therefor shall be a charge against general maintenance."

Requested by: Senators Hoyle, Edwards, Representatives Barbee, Bowie, Crawford

PURCHASE OF CENTURY CENTER CAMPUS FACILITY

Sec. 18.3. Revenue collected into the Highway Trust Fund in excess of the certified budget for the fiscal year ending June 30, 1995, may be reserved and used, to

the extent necessary, by the Department of Transportation to acquire the capital facility known as the Century Center Campus.

Requested by: Senators Hoyle, Edwards, Representatives Barbee, Bowie, Sherrill, Crawford

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY DIVISION OF MOTOR VEHICLES WAKE COUNTY SERVICE FACILITY

Sec. 18.4. The Joint Legislative Transportation Oversight Committee may study a Division of Motor Vehicles Campus in Wake County, including a Customer Service Facility. The Committee may consider:

- (1) The need for a new DMV facility in Wake County;
- (2) The location and design of any proposed DMV Campus;
- (3) The phased construction and total life-cycle cost of any DMV Campus;
- (4) The renovation, replacement, or subsequent use of the existing DMV structures on New Bern Avenue; and
- (5) Other matters relating to Division of Motor Vehicles offices and services in Wake County.

The Department of Transportation, the State Construction Office, the Capital Planning Commission, and other State agencies shall assist the Joint Legislative Transportation Oversight Committee in conducting any study of these matters.

The Joint Legislative Transportation Oversight Committee may report its findings on this matter to the 1995 General Assembly, Regular Session 1996.

Requested by: Representatives Barbee, Bowie, Sherrill, Crawford, Senators Hoyle, Edwards

SMALL URBAN CONSTRUCTION PROGRAM FUNDS INCREASED

Sec. 18.5. Section 18.12 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 18.12. Of the funds appropriated in this act to the Department of ~~Transportation,~~ Transportation:

- (1) ~~fourteen~~ Fourteen million dollars (\$14,000,000) shall be allocated in each fiscal year 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 urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.
- (2) ~~Discretionary funds of six~~ Nine million dollars ~~(\$6,000,000)~~ (\$9,000,000) shall be used statewide for rural or small urban highway ~~improvements~~ improvements, industrial access roads, and spot-safety projects as approved by the Secretary of the Department of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formula as provided in G.S. 136-44.5.

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."

Requested by: Representatives McLaughlin, Barbee, Bowie, Crawford, Senators Hoyle, Edwards

DEPARTMENT OF TRANSPORTATION MAY USE CERTAIN SALARY FUNDS FOR DIVISION OF MOTOR VEHICLE CLASSIFICATIONS

Sec. 18.13. Notwithstanding any other provision of law, the Department of Transportation may use the funds appropriated in Section 3 of Chapter 324 of the 1995 Session Laws for a Reserve of Salary Adjustments and any additional available salary funds for the following Division of Motor Vehicles reclassifications, that were reclassified as a result of the Officer Support Services Occupational Group Study mandated by the Office of State Personnel: Customer Service Representatives Classifications, Traffic Records Clerical Staff, and International Registration Plan positions.

Requested by: Representatives Barbee, Bowie, Crawford, Senators Hoyle, Edwards

ORGANIZATIONAL AND BUSINESS PRACTICES STUDY OF THE DIVISION OF MOTOR VEHICLES

Sec. 18.14. (a)—The Joint Legislative Commission on Governmental Operations shall conduct a study of the Division of Motor Vehicles.

The study may include an assessment and recommendations for change of the Division's statutory responsibilities and functions, organizational structure, processes, and business practices.

The Joint Legislative Commission on Governmental Operations may enter into a contract with a private consulting firm to conduct this study. The Department of Transportation shall be consulted in the preparation of the request for proposal for consultant services.

The Joint Legislative Commission on Governmental Operations shall report its findings and recommendations based on this study to the 1995 General Assembly, Regular Session 1996.

(b) Of the funds appropriated from the Highway Fund to the Legislative Services Commission in this act the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year shall be used to fund the study of the Division of Motor Vehicles by the Joint Legislative Commission on Governmental Operations authorized by subsection (a) of this section.

No new positions may be added, or programs expanded, in the Division of Motor Vehicles until the study is completed and the General Assembly has acted upon the study recommendations.

Requested by: Senators Hoyle, Edwards, Representatives Barbee, Bowie, Crawford
INCREASE ALLOCATION TO WILDLIFE RESOURCES COMMISSION

Sec. 18.16. G.S. 105-449.126, as enacted by Chapter 390 of the 1995 Session Laws, reads as rewritten:

"§ 105-449.126. Distribution of part of Highway Fund allocation to Wildlife Resources Fund.

The Secretary shall credit to the Wildlife Resources Fund one-sixth of one percent (1/6 of 1%) of the amount that is allocated to the Highway Fund under G.S. 105-449.125 and is from the excise tax on ~~gasoline or blended fuel that contains gasoline-motor fuel.~~ Revenue credited to the Wildlife Resources Fund under this section may be used only for the boating and water safety activities described in G.S. 75A-3(c). The Secretary must credit revenue to the Wildlife Resources Fund on an annual basis."

Requested by: Senators Hoyle, Edwards, Representatives Barbee, Bowie, Crawford
VISITOR CENTER OPERATIONAL FUNDS

Sec. 18.17. (a) G.S. 20-79.7(c)(2), as rewritten by Section 18.7 of Chapter 324 of the 1995 Session Laws, reads as rewritten:

"(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is appropriated from the Special Registration Plate Account the sum of ~~four hundred fifty thousand dollars (\$450,000)~~ five hundred twenty-five thousand dollars (\$525,000) for the 1995-96 fiscal year to provide operating assistance for the Visitor and Welcome Centers:

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

(b) The Department of Transportation shall pay the funds appropriated in subsection (a) of this section for operating assistance for the Visitor and Welcome Center in Tyrrell County to Partnership for the Sounds, Inc.

Requested by: Senators Hoyle, Edwards, Representatives Barbee, Bowie, Crawford
BRANCH AGENT TRANSACTION RATE

Sec. 18.18. Section 155 of the 1993 Session Laws, as amended by Section 20.1 of Chapter 769 of the 1993 Session Laws, reads as rewritten:

"Sec. 155. The Division of Motor Vehicles of the Department of Transportation shall compensate a contractor with whom it has a contract under G.S. 20-63(h) at the rate of ~~one dollar (\$1.00)~~ one dollar and twenty cents (\$1.20) for each transaction

performed in accordance with the requirements set by the Division. A transaction is any of the following activities:

- (1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8) of this section is a single transaction. Performance of the item listed in subdivision (9) of this section in combination with any other items listed in this section is a separate transaction."

Requested by: Representatives Holmes, Creech, Esposito, Barbee, Bowie, Crawford, Senators Plyler, Perdue, Odom, Albertson, Edwards, Hoyle

RESERVE FOR DETOXIFICATION OF WARREN COUNTY LANDFILL

Sec. 18.19. Funds in the Reserve for PCB Cleanup in Section 4A of this act shall be used by the Division of Solid Waste Management, Department of Environment, Health, and Natural Resources, to fund a pilot project to identify and select a technology for detoxification and remediation of the PCB Landfill in Warren County.

It is the intent of the General Assembly that any further appropriations for this purpose shall not be made from the Highway Fund.

PART 19. DEPARTMENT OF CORRECTION

Requested by: Senators Ballance, Rand, Parnell, Plyler, Perdue, Odom, Representatives Justus, Thompson, Kiser, Holmes, Creech, Esposito

PRIVATE PRISON BEDS

Sec. 19. G.S. 148-37(g), as enacted by Section 19.10 of Chapter 324 of the 1995 Session Laws, reads as rewritten:

"(g) The Secretary of Correction may contract with private for-profit or nonprofit firms for the provision and operation of two or more confinement facilities totaling up to 1,000 beds in the State to house State prisoners when to do so would most

economically and effectively promote the purposes served by the Department of Correction. This 1,000-bed limitation shall not apply to the 500 beds in private substance abuse treatment centers authorized by the General Assembly prior to July 1, 1995. Contracts entered under the authority of this subsection shall be for a period not to exceed 10 years, shall be renewable from time to time for a period not to exceed 10 years, and are subject to the approval of the Council of State and the Department of Administration, after consultation with the Joint Legislative Commission on Governmental Operations. Confinement facilities provided under the authority of this subsection shall not be used for the purpose of consolidating existing State confinement facilities. The Secretary of Correction shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly. Contracts entered under the authority of this subsection may be subject to any requirements for the location of the confinement facilities set forth by the General Assembly in appropriating those funds.

Contracts made under the authority of this subsection may provide the State with an option to purchase the confinement facility or may provide for the purchase of the confinement facility by the State. Contracts made under the authority of this subsection shall state that plans and specifications for private confinement facilities shall be furnished to and reviewed by the Office of State Construction. The Office of State Construction shall inspect and review each project during construction to ensure that the project is suitable for habitation and to determine whether the project would be suitable for future acquisition by the State. The Department of Correction may give preference to facilities intended for joint county and State use where such facilities are developed by public/private partnerships and financed by tax-exempt bond issues, and where such facilities offer general terms and conditions favorable to the State in the competitive bidding process pursuant to Article 8 of Chapter 143 of the General Statutes. All contracts for the housing of State prisoners in private confinement facilities shall require a minimum of ten million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private confinement facility.

Prisoners housed in private confinement facilities pursuant to this subsection shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The Secretary of Correction may review and approve the design and construction of private confinement facilities before housing State prisoners in these facilities. The rules regarding good time, gain time, and earned credits, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in private confinement facilities pursuant to this subsection. The operators of private confinement facilities may adopt any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Correction. Custodial officials employed by a private confinement facility are agents of the Secretary of Correction and may use those procedures for use of force authorized by the Secretary of Correction to defend themselves, to enforce the observance of discipline in compliance with confinement facility rules, to secure the person of a prisoner, and to prevent escape. Private firms

under this subsection shall employ inmate disciplinary and grievance policies of the North Carolina Department of Correction."

Requested by: Representatives Justus, Thompson, Mercer, Senator Ballance
EXTERNAL CONSULTANT TO EVALUATE DOC SUBSTANCE ABUSE PROGRAMS

Sec. 19.1. Of the funds appropriated to the Department of Correction for the 1995-96 fiscal year, the Department shall use up to twenty-five thousand dollars (\$25,000) to hire an external consultant to evaluate the DART prison substance abuse program and private substance abuse programs funded by the Department as follows:

- (1) Evaluate the appropriateness of the treatment methodology used for those programs;
- (2) Evaluate the cost-effectiveness of those programs, with an emphasis on the number and type of staff employed; and
- (3) Evaluate the effectiveness of those programs in reducing recidivism and drug dependency, if such data is available, or develop evaluation standards and a process for conducting such evaluations and reporting the results.

The Department shall provide the consultant's report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 1, 1996.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand
RESERVE FOR BUNKING INMATES IN SHIFTS

Sec. 19.2. (a) Of the funds appropriated to the Department of Correction for the 1995-96 fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be placed in a Reserve for Bunking Inmates in Shifts. The Department of Correction shall develop a plan for a pilot program at Lincoln Correctional Center that provides for arranging inmates' daily activities in such a manner that at least two different groups of inmates may occupy the same dormitory space during different portions of each 24-hour day. In the course of planning this pilot program, the Department shall consult with the Attorney General and the federal courts to ensure that such an arrangement will not violate the State's obligations under law.

(b) The Department shall report on the development of its plan to bunk inmates in shifts, including its efforts to obtain court approval for the plan, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 15, 1996.

Requested by: Representatives Justus, Thompson, Pulley, Senator Ballance
NOTICE OF COMMUTATIONS

Sec. 19.3. (a) G.S. 147-16 reads as rewritten:

"§ 147-16. Records kept; certain original applications ~~preserved.~~ preserved; notice of commutations.

(a) The Governor shall cause to be kept the following records:

- (1) A register of all applications for pardon, or for commutation of any sentence, with a list of the official signatures and recommendations in favor of such application.
- (2) An account of all his official expenses and disbursements, including the incidental expenses of his department, and the rewards offered by him for the apprehension of criminals.

These records and the originals of all applications, petitions, and recommendations and reports therein mentioned shall be preserved in the office of the Governor, but when applications for offices are refused he may, in his discretion, return the papers referring to the application.

(b) The Governor shall, unless otherwise requested by any person listed in subdivisions (1) through (4) of this subsection, provide notice of the commutation of any sentence within 20 days after the commutation by first-class mail to the following at the last known address:

- (1) The victim or victims of the crime for which the sentence was imposed;
 - (2) The victims' spouse, children, and parents;
 - (3) Any other members of the victims' family who request in writing to be notified; and
 - (4) The Chairs of the Joint Legislative Corrections Oversight Committee."
- (b) This section is effective upon ratification.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
REIMBURSE COUNTIES FOR EXTRAORDINARY MEDICAL COSTS FOR INMATES AWAITING TRANSFER TO STATE PRISON SYSTEM

Sec. 19.4. Notwithstanding the provisions of G.S. 148-29, the Secretary of Correction may use funds appropriated to the Department of Correction for medical services to reimburse counties for extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by inmates housed in local confinement facilities awaiting transfer in the State prison system.

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

CREATE NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS/CREATE FELONY OFFENSE OF ASSAULT ON A LAW ENFORCEMENT OFFICER/INCREASE PENALTIES FOR POSSESSION OF A FIREARM BY A FELON/LENGTHEN MINIMUM SENTENCES FOR FELONY OFFENSE CLASSES B2, C, AND D/AUTHORIZE ACTIVE SENTENCE FOR PRIOR RECORD LEVELS I AND II OF FELONY OFFENSE CLASS H/MAKE AIRPORT OBSTRUCTIONS ILLEGAL/LOWER FOOD STAMP FRAUD FELONY THRESHOLD/INCREASE PENALTY FOR

FIRST DEGREE SEXUAL EXPLOITATION OF MINOR/INCREASE PENALTY FOR PROMOTING PROSTITUTION OF MINOR

Sec. 19.5. (a) Funds appropriated in this act to construct 1,384 prison beds shall increase prison capacity to the level necessary to provide for the increases in criminal penalties provided for in this section and the following section.

(b) G.S. 14-33 as amended by Chapter 352 of the 1995 Session Laws reads as rewritten:

"§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class ~~1~~2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

- (1) ~~Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon;~~
- (2) ~~Assaults a female, he being a male person at least 18 years of age;~~
- (3) ~~Assaults a child under the age of 12 years;~~
- (4) through (7) Repealed by Session Laws 1991, c. 525, s. 1;
- (8) ~~Assaults an officer or employee of the State or of any political subdivision of the State, a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes, or a campus police officer certified pursuant to the provisions of Chapter 17C or Chapter 116 of the General Statutes, when the officer or employee is discharging or attempting to discharge his official duties; or~~
- (9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A 'sports official' is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A 'sports event' includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.
- (10) ~~Assaults a school bus driver, school bus monitor, or school employee who is boarding the school bus or who is on the school bus.~~

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

- (1) Inflicts serious injury upon another person or uses a deadly weapon;
- (2) Assaults a female, he being a male person at least 18 years of age;
- (3) Assaults a child under the age of 12 years;
- (4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties; or
- (5) Assaults a school bus driver, school bus monitor, or school employee who is boarding the school bus or who is on the school bus."

(c) Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-33.2. Habitual misdemeanor assault.

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of G.S. 14-33(c) or G.S. 14-34 and has been convicted of five or more prior misdemeanor convictions, two of which were assaults. A person convicted of violating this section is guilty of a Class H felony."

(d) G.S. 14-34 reads as rewritten:

"§ 14-34. Assaulting by pointing gun.

If any person shall point any gun or pistol at any person, either in fun or otherwise, whether such gun or pistol be loaded or not loaded, he shall be guilty of a Class ~~4~~A1 misdemeanor."

(e) G.S. 15A-1332(c) reads as rewritten:

"(c) Presentence Commitment for Study. – When the court desires more detailed information as a basis for determining the sentence to be imposed than can be provided by a presentence investigation, the court may commit a defendant to the Department of Correction for study for the shortest period necessary to complete the study, not to exceed 90 days, if that defendant has been charged with or convicted of any felony or a Class A1 or Class 1 misdemeanor crime or crimes for which he may be imprisoned for more than six months and if he consents. The period of commitment must end when the study is completed, and may not exceed 90 days. The Department must conduct a complete study of a defendant committed to it under this subsection, inquiring into such matters as the defendant's previous delinquency or criminal experience, his social background, his capabilities, his mental, emotional and physical health, and the availability of resources or programs appropriate to the defendant. Upon completion of the study or the end of the 90-day period, whichever occurs first, the Department of Correction must release the defendant to the sheriff of the county in which his case is docketed. The Department must forward the study to the clerk in that county, including whatever recommendations the Department believes will be helpful to a proper resolution of the case. When a defendant is returned from a presentence commitment for study, the conditions of pretrial release which obtained for the defendant before the commitment continue until judgment is entered, unless the conditions are modified under the provisions of G.S. 15A-534(e)."

(f) G.S. 15A-1340.14(b) reads as rewritten:

"(b) Points. – Points are assigned as follows:

- (1) For each prior felony Class A conviction, 10 points.

- (1a) For each prior felony Class B1 conviction, 9 points.
- (2) For each prior felony Class B2, C, or D conviction, 6 points.
- (3) For each prior felony Class E, F, or G conviction, 4 points.
- (4) For each prior felony Class H or I conviction, 2 points.
- (5) For each prior Class A1 or Class 1 misdemeanor conviction, 1 point, except that convictions for Class 1 misdemeanor offenses under Chapter 20 of the General Statutes, other than conviction for misdemeanor death by vehicle (G.S. 20-141.4(a2)), shall not be assigned any points for purposes of determining a person's prior record for felony sentencing.
- (6) If all the elements of the present offense are included in the prior offense, 1 point.
- (7) If the offense was committed while the offender was on probation or parole, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, 1 point.

For purposes of determining prior record points under this subsection, a conviction for a first degree rape or a first degree sexual offense committed prior to the effective date of this subsection shall be treated as a felony Class B1 conviction, and a conviction for any other felony Class B offense committed prior to the effective date of this subsection shall be treated as a felony Class B2 conviction."

(g) G.S. 15A-1340.23 reads as rewritten:

"§ 15A-1340.23. Punishment limits for each class of offense and prior conviction level.

(a) **Offense Classification; Default Classifications.** – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) **Fines.** – Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) **Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described.** – Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

- (1) A sentence disposition or dispositions: 'C' indicates that a community punishment is authorized; 'I' indicates that an intermediate punishment

is authorized; and 'A' indicates that an active punishment is authorized; and

- (2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

PRIOR CONVICTION LEVELS

MISDEMEANOR

OFFENSE CLASS	<u>LEVEL I</u> No Prior Convictions	<u>LEVEL II</u> One to Four Prior Convictions	<u>LEVEL III</u> Five or More Prior Convictions
<u>A1</u>	<u>1-60 days C/I/A</u>	<u>1-75 days C/I/A</u>	<u>1-150 days C/I/A</u>
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I	1-20 days C/I/A."

(h) G.S. 15A-1343.1, as rewritten by Chapter 446 of the 1995 Session Laws, reads as rewritten:

"§ 15A-1343.1. Criteria for selection and sentencing to IMPACT.

The criteria for selecting and sentencing offenders to the Intensive Motivational Program of Alternative Correctional Treatment as provided under G.S. 15A-1343(b1)(2A) shall be as follows:

- (1) The offender must be between the ages of 16 and 30;
- (2) The offender must be convicted of a Class 1 ~~misdemeanor~~ misdemeanor, Class A1 misdemeanor, or a felony.
- (3) The offender must submit to a medical evaluation by a physician approved by his probation or parole officer and must be certified by the physician to be medically fit for program participation."

(i) G.S. 14-34.2 reads as rewritten:

"§ 14-34.2. Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers.

Any—Unless a person's conduct is covered under some other provision of law providing greater punishment, any person who commits an assault with a firearm or any other deadly weapon upon an officer or employee of the State or of any political subdivision of the State, a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes, or a campus police officer certified pursuant to the provisions of Chapter 17C or Chapter 116 of the General Statutes, in the performance of his duties shall be guilty of a Class F felony."

(j) Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.5. Assault with a firearm on a law enforcement officer.

Any person who commits an assault with a firearm upon a law enforcement officer in the performance of his or her duties is guilty of a Class E felony."

(k) G.S. 14-415.1(a) reads as rewritten:

"(a) It shall be unlawful for any person who has been convicted of any crime set out in subsection (b) of this section to purchase, own, possess, or have in his custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c), within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later.

Every person violating the provisions of this section shall be punished as a Class ~~H~~
G felon.

Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business."

(l) G.S. 15A-1340.17(c) reads as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: 'C' indicates that a community punishment is authorized; 'I' indicates that an intermediate punishment is authorized; 'A' indicates that an active punishment is authorized; and 'Life Imprisonment Without Parole' indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

I	II	III	IV	V	VI
0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts

A Life Imprisonment or Death as Established by Statute

	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	A	A	A	A	A	A	DISPOSITION
	135-169	163-204	190-238	216-270	243-304	270-338	Aggravated
B2	108-135	130-163	152-190	173-216	194-243	216-270	PRESUMPTIVE
	81-108	98-130	114-152	130-173	146-194	162-216	Mitigated
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	<u>125-157</u>	<u>151-189</u>	<u>176-220</u>	<u>201-251</u>	<u>225-282</u>	<u>251-313</u>	PRESUMPTIVE
	<u>94-125</u>	<u>114-151</u>	<u>132-176</u>	<u>151-201</u>	<u>169-225</u>	<u>188-251</u>	Mitigated
	A	A	A	A	A	A	DISPOSITION
	63-79	86-108	100-125	115-144	130-162	145-181	Aggravated
C	50-63	69-86	80-100	92-115	104-130	116-145	PRESUMPTIVE
	38-50	52-69	60-80	69-92	78-104	87-116	Mitigated
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	<u>58-73</u>	<u>80-100</u>	<u>93-116</u>	<u>107-133</u>	<u>121-151</u>	<u>135-168</u>	PRESUMPTIVE
	<u>44-58</u>	<u>60-80</u>	<u>70-93</u>	<u>80-107</u>	<u>90-121</u>	<u>101-135</u>	Mitigated
	A	A	A	A	A	A	DISPOSITION
	55-69	66-82	89-111	101-126	115-144	126-158	Aggravated
D	44-55	53-66	71-89	81-101	92-115	101-126	PRESUMPTIVE
	33-44	40-53	53-71	61-81	69-92	76-101	Mitigated
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	<u>51-64</u>	<u>61-77</u>	<u>82-103</u>	<u>94-117</u>	<u>107-133</u>	<u>117-146</u>	PRESUMPTIVE
	<u>38-51</u>	<u>46-61</u>	<u>61-82</u>	<u>71-94</u>	<u>80-107</u>	<u>88-117</u>	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION

	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	<u>C/I/A</u>	<u>I/A</u>	<u>I/A</u>	<u>I/A</u>	<u>I/A</u>	<u>A</u>	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	<u>C</u>	<u>C/I</u>	<u>I</u>	<u>I/A</u>	<u>I/A</u>	<u>I/A</u>	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(m) Chapter 63 of the General Statutes is amended by adding a new section to read:

"§ 63-37.1. Airport obstructions illegal.

Any person, other than the owner or operator of an airport, who intentionally obstructs the lawful takeoff and landing operations and patterns of aircraft at an existing public or private airport shall be guilty of a Class 1 misdemeanor."

(n) G.S. 108A-53(a) reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in the amount of ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in an amount more than ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) shall be guilty of a Class I felony."

(o) G.S. 14-190.16(d) reads as rewritten:

"(d) Punishment and Sentencing. – Violation of this section is a Class ~~E~~D felony."

(p) G.S. 14-190.18(c) reads as rewritten:

"(c) Punishment and Sentencing. – Violation of this section is a Class ~~F~~D felony."

(q) This section becomes effective December 1, 1995, and applies to offenses committed on or after that date.

Requested by: Senators Gulley, Ballance, Rand, Representatives Hiatt, Justus, Thompson, Kiser

ASSAULT EMERGENCY MEDICAL PERSONNEL

Sec. 19.6. (a) Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.5. Assault or affray on an emergency medical technician, ambulance attendant, emergency department nurse, or emergency department physician.

(a) A person is guilty of a Class A1 misdemeanor if the person commits an assault or an affray on an emergency medical technician, ambulance attendant, emergency department nurse, or emergency department physician while the technician, attendant, nurse, or physician is discharging or attempting to discharge official duties.

(b) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class I felony if the person violates subsection (a) of this section and (i) inflicts bodily injury or (ii) uses a deadly weapon other than a firearm.

(c) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person violates subsection (a) of this section and uses a firearm."

(b) This section becomes effective December 1, 1995, and applies to offenses committed on or after that date.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

HARRIET'S HOUSE FUNDS

Sec. 19.7. Of the funds appropriated to the Department of Correction, the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 1996-97 fiscal year shall be used to support the programs of Harriet's House, a transitional home for female ex-offenders and their children. Harriet's House shall report quarterly to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

DEPARTMENT OF CORRECTION/DEPARTMENT OF HUMAN RESOURCES JOINT PLAN/RESERVE FOR SUBSTANCE ABUSE TREATMENT PILOT PROGRAM FOR PAROLEES AND PROBATIONERS

Sec. 19.8. (a) The balance of the five hundred eighty-three thousand dollars (\$583,000) appropriated in Chapter 24 of the Session Laws of the 1994 Extra Session to the Department of Correction for the 1994-95 fiscal year for an intensive out-patient substance abuse treatment pilot program for parolees and probationers with serious substance abuse histories shall not revert at the end of the fiscal year but shall remain in the Department for that purpose. The Department of Correction and the Department of Human Resources shall jointly report on the development and implementation of the pilot program to the Chairs of the Senate and House Appropriations Committees and the

Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety not later than May 15, 1996.

(b) This section becomes effective June 30, 1995.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

EXEMPTION FROM LICENSURE AND CERTIFICATE OF NEED

Sec. 19.9. (a) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction shall be exempt from licensure by the Department of Human Resources under Chapter 122C of the General Statutes. If an inpatient chemical dependency or substance abuse facility provides services both to inmates of the Department of Correction and to members of the general public, the portion of the facility that serves inmates shall be exempt from licensure.

(b) Any person who contracts to provide inpatient chemical dependency or substance abuse services to inmates of the Department of Correction may construct and operate a new chemical dependency or substance abuse facility for that purpose without first obtaining a certificate of need from the Department of Human Resources pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition developed for that purpose without a certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the owner or operator first obtains a certificate of need.

(c) This section applies to existing facilities, as well as future facilities contracting with the Department of Correction.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

CORRECTIONS OVERSIGHT STUDY SALARY CONTINUATION

Sec. 19.10. (a) The Joint Legislative Corrections Oversight Committee shall study the salary continuation program in the Department of Correction provided for in Article 12B of Chapter 143 of the General Statutes. The Committee shall review:

- (1) The numbers and types of positions in the Department of Correction currently receiving the benefit;
- (2) The number and types of accidents occurring for which employees receive salary continuation;
- (3) The application of this benefit to accidents and injuries on the job;
- (4) The application of this benefit to certified positions and not to non-certified positions;
- (5) The costs of this benefit to the Department and methods for reducing future costs.

(b) The Joint Legislative Corrections Oversight Committee shall report its findings and recommendations to the 1995 General Assembly, 1996 Regular Session.

Requested by: Senators Ballance, Rand, Plyler, Odom, Representatives Justus, Thompson, Kiser

DART AFTERCARE FUNDS

Sec. 19.11. Funds appropriated in this act to the Department of Correction for a Drug Alcohol Recovery Treatment (DART) aftercare program shall be used to contract for up to three pilot programs statewide to provide aftercare services, including counseling and job referral services, for DART DWI offenders and other offenders who have completed a DART program in the Division of Prisons.

The Department of Correction shall report on the pilot programs to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 15, 1996. The report shall include information on the number of clients served, the quality of services, the cost-effectiveness of the services, and the benefits of the programs to offenders.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand
WAIVER OF STATE PERSONNEL ACT REQUIREMENTS

Sec. 19.12. To the extent necessary in order to comply timely with a settlement agreement resulting from Title VII litigation, the Department of Correction may waive the requirements of the State Personnel Act contained in G.S. 126-7.1 and G.S. 126-16. This section applies only to the seventeen positions approved for Title VII compliance.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
FEDERAL GRANT REPORTING

Sec. 19.13. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, and the Judicial Department shall report by December 1 and June 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or pre-approved for receipt by those departments. The report shall include information on the amount of grant funds received or pre-approved for receipt by each department, the use of the funds, and the State match expended to receive the funds.

PART 20. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand
COMMUNITY SERVICE DISTRICT SUPERVISOR RESIDENCY REQUIREMENT

Sec. 20. (a) G.S. 143B-475.1 is amended by adding a new subsection to read:
"(e) In order to maximize the efficiency and effectiveness of the community service program, (i) beginning September 1, 1995, community service program districts shall have the same boundaries as the district court districts established in G.S. 7A-133 and (ii) beginning with persons hired on or after September 1, 1995, all community service program district supervisors employed by the Department of Crime Control and

Public Safety to supervise each of the community service program districts shall reside in the district in which the supervisor works."

(b) This section is effective upon ratification.

PART 21. JUDICIAL DEPARTMENT

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
**INCREASE MAXIMUM ALLOWABLE MAGISTRATES FOR CURRITUCK,
PASQUOTANK AND SURRY COUNTIES/DIVIDE DISTRICT COURT
DISTRICT 9/ADD JUDGE IN DISTRICT COURT DISTRICT 29/ADD TWO
SPECIAL SUPERIOR COURT JUDGES/MAGISTRATES ELIGIBILITY**

Sec. 21.1. (a) Article 18 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-200. District and set of districts defined; chief district court judges and their authority.

(a) In this section:

- (1) 'District' means any district court district established by G.S. 7A-133 which consists exclusively of one or more entire counties;
- (2) 'Set of districts' means any set of two or more district court districts established under G.S. 7A-133, none of which consists exclusively of one or more entire counties, but both or all of which include territory from the same county or counties and together comprise all of the territory of that county or those counties; and
- (3) 'Chief district court judge' means in the case of a set of districts, the chief district court judge for those districts, designated by the chief justice from among the district court judges for the districts in the set of districts.

(b) Whenever by law a duty is imposed upon the chief district court judge, it means for a set of districts the chief district court judge designated under subsection (a)(3) of this section."

(b) Article 14 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-149. Jurisdiction; sessions.

(a) Notwithstanding any other provision of law, a district court judge of a district court district which is in a set of districts as defined by G.S. 7A-200 has jurisdiction in the entire county or counties in which the district is located to the same extent as if the district encompassed the entire county, and has jurisdiction in the entire set of districts to the same extent as if the district encompassed the entire set of districts.

(b) All sessions of district court shall be for an entire county, whether that county comprises or is located in a district or in a set of districts as defined in G.S. 7A-200, and at each session all matters and proceedings arising anywhere in the county may be heard.

(c) All clerks of court for a county have jurisdiction over the entire county, notwithstanding that the county may be part of a set of districts."

(c) G.S. 7A-133 reads as rewritten:

"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties.

(a) Each district court district shall have the numbers of judges ~~and each county within the district shall have the numbers of magistrates and additional seats of court,~~ as set forth in the following table:

District	Judges	County	Magistrates Min.-Max.		Additional Seats of Court
1	4	Camden	1	2	
		Chowan	2	3	
		Currituck	1	2	
		Dare	3	8	
		Gates	2	3	
		Pasquotank	3	4	
		Perquimans	2	3	
2	3	Martin	5	8	
		Beaufort	4	8	
		Tyrrell	1	3	
		Hyde	2	4	
		Washington	3	4	
3A	3	Pitt	10	12	Farmville Ayden
3B	4	Craven	7	10	Havelock
		Pamlico	2	3	
		Carteret	5	8	
4	6	Sampson	6	8	
		Duplin	9	11	
		Jones	2	3	
		Onslow	8	14	
5	6	New Hanover	6	11	
		Pender	4	6	
6A	2	Halifax	9	14	Roanoke Rapids, Scotland Neck
6B	3	Northampton	5	6	
		Bertie	4	5	
		Hertford	5	6	
7	6	Nash	7	10	Rocky Mount
		Edgecombe	4	6	Rocky Mount
		Wilson	4	6	
8	5	Wayne	5	11	Mount Olive
		Greene	2	4	

		Lenoir	4	10	La Grange
9	4	Granville	3	7	
		(part of Vance	3	5	
		<u>see subsection (b))</u>			
		Warren	3	4	
		Franklin	3	6	
9A	2	Person	3	4	
		Caswell	2	5	
<u>9B</u>	<u>1</u>	<u>Warren</u>			
		(part of Vance			
		<u>see subsection (b))</u>			
10	12	Wake	12	20	Apex, Wendell, Fuquay- Varina, Wake Forest
11	6	Harnett	7	11	Dunn
		Johnston	10	12	Benson, Clayton and Selma
		Lee	4	6	
12	6	Cumberland	10	17	
13	4	Bladen	4	6	
		Brunswick	4	7	
		Columbus	6	8	Tabor City
14	5	Durham	8	12	
15A	3	Alamance	7	10	Burlington
15B	3	Orange	4	11	Chapel Hill
		Chatham	3	8	Siler City
16A	2	Scotland	3	5	
		Hoke	4	5	
16B	5	Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
17A	2	Rockingham	4	9	Reidsville, Eden, Madison
17B	3	Stokes	2	5	
		Surry	5	8	Mt. Airy
18	10	Guilford	20	26	High Point
19A	3	Cabarrus	5	9	Kannapolis

19B	3	Montgomery	2	4	
		Randolph	5	8	Liberty
19C	3	Rowan	5	10	
20	6	Stanly	5	6	
		Union	4	6	
		Anson	4	5	
		Richmond	5	6	Hamlet
		Moore	5	8	Southern Pines
21	7	Forsyth	3	15	Kernersville
22	7	Alexander	2	3	
		Davidson	7	10	Thomasville
		Davie	2	3	
		Iredell	4	9	Mooresville
23	3	Alleghany	1	2	
		Ashe	3	4	
		Wilkes	4	6	
		Yadkin	3	5	
24	3	Avery	3	4	
		Madison	4	5	
		Mitchell	3	4	
		Watauga	4	6	
		Yancey	2	4	
25	7	Burke	4	7	
		Caldwell	4	7	
		Catawba	6	10	Hickory
26	14	Mecklenburg	15	26	
27A	5	Gaston	11	20	
27B	4	Cleveland	5	8	
		Lincoln	4	6	
28	5	Buncombe	6	15	
29	4	Henderson	4	6	
		McDowell	3	5	
		Polk	3	4	
		Rutherford	6	8	
		Transylvania	2	4	
30	4	Cherokee	3	4	
		Clay	1	2	
		Graham	2	3	
		Haywood	5	7	Canton
		Jackson	3	4	
		Macon	3	4	
		Swain	2	3	

(b) For district court districts of less than a whole county, or with part or all of one county with part of another, the composition of the district is as follows:

- (1) District Court District 9 consists of Franklin and Granville Counties and the remainder of Vance County not in District Court District 9B.
- (2) District Court District 9B consists of Warren County and East Henderson I, North Henderson I, North Henderson II, Middleburg, Townsville, and Williamsboro Precincts of Vance County.

Precinct boundaries as used in this section for Vance County are those shown on maps on file with the Legislative Services Office on May 1, 1991, and for other counties are those reported by the United States Bureau of the Census under Public Law 94-171 for the 1990 Census in the IVTD Version of the TIGER files.

(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

<u>County</u>	<u>Magistrates</u> Min.-Max.		<u>Additional</u> <u>Seats of</u> <u>Court</u>
<u>Camden</u>	<u>1</u>	<u>2</u>	
<u>Chowan</u>	<u>2</u>	<u>3</u>	
<u>Currituck</u>	<u>1</u>	<u>3</u>	
<u>Dare</u>	<u>3</u>	<u>8</u>	
<u>Gates</u>	<u>2</u>	<u>3</u>	
<u>Pasquotank</u>	<u>3</u>	<u>5</u>	
<u>Perquimans</u>	<u>2</u>	<u>3</u>	
<u>Martin</u>	<u>5</u>	<u>8</u>	
<u>Beaufort</u>	<u>4</u>	<u>8</u>	
<u>Tyrrell</u>	<u>1</u>	<u>3</u>	
<u>Hyde</u>	<u>2</u>	<u>4</u>	
<u>Washington</u>	<u>3</u>	<u>4</u>	
<u>Pitt</u>	<u>10</u>	<u>12</u>	<u>Farmville</u> <u>Ayden</u>
<u>Craven</u>	<u>7</u>	<u>10</u>	<u>Havelock</u>
<u>Pamlico</u>	<u>2</u>	<u>3</u>	
<u>Carteret</u>	<u>5</u>	<u>8</u>	
<u>Sampson</u>	<u>6</u>	<u>8</u>	
<u>Duplin</u>	<u>9</u>	<u>11</u>	
<u>Jones</u>	<u>2</u>	<u>3</u>	
<u>Onslow</u>	<u>8</u>	<u>14</u>	
<u>New Hanover</u>	<u>6</u>	<u>11</u>	
<u>Pender</u>	<u>4</u>	<u>6</u>	
<u>Halifax</u>	<u>9</u>	<u>14</u>	<u>Roanoke</u> <u>Rapids,</u> <u>Scotland Neck</u>
<u>Northampton</u>	<u>5</u>	<u>6</u>	

<u>Bertie</u>	<u>4</u>	<u>5</u>	
<u>Hertford</u>	<u>5</u>	<u>6</u>	
<u>Nash</u>	<u>7</u>	<u>10</u>	<u>Rocky Mount</u>
<u>Edgecombe</u>	<u>4</u>	<u>6</u>	<u>Rocky Mount</u>
<u>Wilson</u>	<u>4</u>	<u>6</u>	
<u>Wayne</u>	<u>5</u>	<u>11</u>	<u>Mount Olive</u>
<u>Greene</u>	<u>2</u>	<u>4</u>	
<u>Lenoir</u>	<u>4</u>	<u>10</u>	<u>La Grange</u>
<u>Granville</u>	<u>3</u>	<u>7</u>	
<u>Vance</u>	<u>3</u>	<u>5</u>	
<u>Warren</u>	<u>3</u>	<u>4</u>	
<u>Franklin</u>	<u>3</u>	<u>6</u>	
<u>Person</u>	<u>3</u>	<u>4</u>	
<u>Caswell</u>	<u>2</u>	<u>5</u>	
<u>Wake</u>	<u>12</u>	<u>20</u>	<u>Apex,</u> <u>Wendell,</u> <u>Fuquay-</u> <u>Varina,</u> <u>Wake Forest</u>
<u>Harnett</u>	<u>7</u>	<u>11</u>	<u>Dunn</u>
<u>Johnston</u>	<u>10</u>	<u>12</u>	<u>Benson,</u> <u>Clayton,</u> <u>Selma</u>
<u>Lee</u>	<u>4</u>	<u>6</u>	
<u>Cumberland</u>	<u>10</u>	<u>17</u>	
<u>Bladen</u>	<u>4</u>	<u>6</u>	
<u>Brunswick</u>	<u>4</u>	<u>7</u>	
<u>Columbus</u>	<u>6</u>	<u>8</u>	<u>Tabor City</u>
<u>Durham</u>	<u>8</u>	<u>12</u>	
<u>Alamance</u>	<u>7</u>	<u>10</u>	<u>Burlington</u>
<u>Orange</u>	<u>4</u>	<u>11</u>	<u>Chapel Hill</u>
<u>Chatham</u>	<u>3</u>	<u>8</u>	<u>Siler City</u>
<u>Scotland</u>	<u>3</u>	<u>5</u>	
<u>Hoke</u>	<u>4</u>	<u>5</u>	
<u>Robeson</u>	<u>8</u>	<u>16</u>	<u>Fairmont,</u> <u>Maxton,</u> <u>Pembroke,</u> <u>Red Springs,</u> <u>Rowland,</u> <u>St. Pauls</u>
<u>Rockingham</u>	<u>4</u>	<u>9</u>	<u>Reidsville,</u> <u>Eden,</u> <u>Madison</u>
<u>Stokes</u>	<u>2</u>	<u>5</u>	

<u>Surry</u>	<u>5</u>	<u>9</u>	<u>Mt. Airy</u>
<u>Guilford</u>	<u>20</u>	<u>26</u>	<u>High Point</u>
<u>Cabarrus</u>	<u>5</u>	<u>9</u>	<u>Kannapolis</u>
<u>Montgomery</u>	<u>2</u>	<u>4</u>	
<u>Randolph</u>	<u>5</u>	<u>8</u>	<u>Liberty</u>
<u>Rowan</u>	<u>5</u>	<u>10</u>	
<u>Stanly</u>	<u>5</u>	<u>6</u>	
<u>Union</u>	<u>4</u>	<u>6</u>	
<u>Anson</u>	<u>4</u>	<u>5</u>	
<u>Richmond</u>	<u>5</u>	<u>6</u>	<u>Hamlet</u>
<u>Moore</u>	<u>5</u>	<u>8</u>	<u>Southern</u>
			<u>Pines</u>
<u>Forsyth</u>	<u>3</u>	<u>15</u>	<u>Kernersville</u>
<u>Alexander</u>	<u>2</u>	<u>3</u>	
<u>Davidson</u>	<u>7</u>	<u>10</u>	<u>Thomasville</u>
<u>Davie</u>	<u>2</u>	<u>3</u>	
<u>Iredell</u>	<u>4</u>	<u>9</u>	<u>Mooresville</u>
<u>Alleghany</u>	<u>1</u>	<u>2</u>	
<u>Ashe</u>	<u>3</u>	<u>4</u>	
<u>Wilkes</u>	<u>4</u>	<u>6</u>	
<u>Yadkin</u>	<u>3</u>	<u>5</u>	
<u>Avery</u>	<u>3</u>	<u>4</u>	
<u>Madison</u>	<u>4</u>	<u>5</u>	
<u>Mitchell</u>	<u>3</u>	<u>4</u>	
<u>Watauga</u>	<u>4</u>	<u>6</u>	
<u>Yancey</u>	<u>2</u>	<u>4</u>	
<u>Burke</u>	<u>4</u>	<u>7</u>	
<u>Caldwell</u>	<u>4</u>	<u>7</u>	
<u>Catawba</u>	<u>6</u>	<u>10</u>	<u>Hickory</u>
<u>Mecklenburg</u>	<u>15</u>	<u>26</u>	
<u>Gaston</u>	<u>11</u>	<u>20</u>	
<u>Cleveland</u>	<u>5</u>	<u>8</u>	
<u>Lincoln</u>	<u>4</u>	<u>6</u>	
<u>Buncombe</u>	<u>6</u>	<u>15</u>	
<u>Henderson</u>	<u>4</u>	<u>6</u>	
<u>McDowell</u>	<u>3</u>	<u>5</u>	
<u>Polk</u>	<u>3</u>	<u>4</u>	
<u>Rutherford</u>	<u>6</u>	<u>8</u>	
<u>Transylvania</u>	<u>2</u>	<u>4</u>	
<u>Cherokee</u>	<u>3</u>	<u>4</u>	
<u>Clay</u>	<u>1</u>	<u>2</u>	
<u>Graham</u>	<u>2</u>	<u>3</u>	
<u>Haywood</u>	<u>5</u>	<u>7</u>	<u>Canton</u>
<u>Jackson</u>	<u>3</u>	<u>4</u>	

Macon 3 4
Swain 2 3."

(d) The Governor shall appoint the additional district court judge for District Court District 9B authorized by subsection (c) of this section. A successor shall be elected in the 1998 general election for a four-year term commencing the first Monday in December 1998.

(e) The Governor shall appoint the additional district court judge for District Court District 29 authorized by subsection (c) of this section. A successor shall be elected in the 1998 general election for a four-year term commencing the first Monday in December 1998.

(f) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a1) Effective October 1, 1995, the Governor may appoint two special superior court judges to serve terms expiring September 30, 2000. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

(g) Notwithstanding any other provision of law, any person who has previously served as a a magistrate is eligible to be appointed as a magistrate.

(h) Subsections (c) and (d) of this section become effective January 1, 1996, or 15 days after the date upon which those subsections are approved under Section 5 of the Voting Rights Act of 1965, whichever is later, except that the additional district court judgeship for district court district 29 authorized by subsection (c) of this section becomes effective January 1, 1996. Subsection (f) of this section becomes effective October 1, 1995. Subsection (g) of this section is effective upon ratification. The remainder of this section becomes effective January 1, 1996.

(i) The provisions of this section are severable. If any provision of this section is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the section that can be given effect without the invalid provision.

Requested by: Representatives Justus, Thompson, Mercer, Senator Ballance

RECIDIVISM STUDY

Sec. 21.2. The North Carolina Sentencing and Policy Advisory Commission shall contract with an external consultant to study recidivism of criminal offenders assigned to community correctional programs or released from prison. The community correctional programs to be studied shall include Treatment Alternatives to Street Crime (TASC), Community Penalties Program, Community Service, and all supervised probation and parole programs. The study shall identify those offenders rearrested within two years or more after assignment to a program or release from prison.

Of the funds appropriated to the Judicial Department for the 1995-97 biennium, the Department may use up to fifty thousand dollars (\$50,000) during the 1995-97 biennium to contract with an external consultant for this study. The Department shall provide the consultant's report to the Chairs of the Senate and House

Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 1, 1996.

Requested by: Senators Ballance, Rand Representatives Justus, Thompson, Kiser
INDIGENT PERSONS' ATTORNEY FEE FUND

Sec. 21.3. (a) Effective July 1, 1995, the Administrative Office of the Courts shall each year of the 1995-97 biennium reserve funds for capital cases and for transcripts, professional examinations, and expert witness fees from the Indigent Persons' Attorney Fee Fund. The remaining available funds in the Indigent Persons' Attorney Fee Fund shall be allotted for adult, juvenile, and guardian ad litem cases for the 1995-96 and 1996-97 fiscal years to each judicial district in which the superior and district court districts are coterminous, and otherwise by county, according to the caseload of indigent persons who were not represented by the public defender in the districts or counties during 1994-95 and 1995-96 respectively.

The Administrative Office of the Courts shall notify all senior resident superior court judges, all chief district court judges, and the clerk of superior court within the district or county immediately after the allotment is made and shall provide a monthly report on the status of the allotment for the district or county.

The senior resident superior court judge and the chief district court judge of each district or county shall ask all judges holding court within the district or county: (i) to take into consideration the amount of money allotted at the beginning of the fiscal year and the amount of money remaining in the allotment when they award counsel fees to attorneys of indigent persons, and (ii) to make an effort to award fees equally and justly for legal services provided. The clerk of superior court for each county shall ensure that all judges holding court within the county receive this request from the senior resident superior court judge and the chief district court judge.

(b) If the funds allotted pursuant to subsection (a) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot any available funds from the reserve fund specified in subsection (a) or from unanticipated receipts. However, if necessary and appropriate due to unusual and unanticipated circumstances occurring in the current year, the Administrative Office of the Courts may allocate available funds to a district or county in a manner calculated to result in the reasonably fair distribution of remaining funds.

(c) If funds allocated in subsections (a) and (b) are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot available funds from the Public Defender program.

(d) If the funds allotted pursuant to subsections (a), (b), and (c) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts is authorized to transfer funds between districts or counties only if the Administrative Office of the Courts determines that the funds transferred will not be needed to meet the obligations incurred by the Indigent Persons' Attorney Fee Fund for the county or district from which the funds are transferred for the fiscal year.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand
ASSISTANT PUBLIC DEFENDERS

Sec. 21.4. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1995-97 biennium, the Administrative Office of the Courts may use up to one hundred eighty-eight thousand nine hundred ninety-four dollars (\$188,994) in the 1995-96 fiscal year, and up to one hundred eighty-six thousand one hundred seventy-one dollars (\$186,171) in the 1996-97 fiscal year for salaries, benefits, and related expenses to establish up to three new assistant public defenders.

Requested by: Representatives Justus, Thompson, Redwine, Kiser, Senators Ballance, Rand

DISPUTE SETTLEMENT FUNDS

Sec. 21.5. (a) Of the three hundred sixty-three thousand five hundred dollars (\$363,500) appropriated in this act for each fiscal year of the 1995-97 biennium for new and additional funding for dispute settlement centers, twenty-five thousand dollars (\$25,000) each shall be allocated for new funding for the Blue Ridge Dispute Settlement Center and the Sandhills Mediation Center, fifteen thousand dollars (\$15,000) each shall be allocated for new funding for the Duplin County Dispute Settlement Center and Mediation Services of Rockingham County, and ten thousand dollars (\$10,000) shall be allocated for new funding for the Dispute Settlement Center of Moore County. The remaining funds for each fiscal year shall be allocated for additional funding as follows:

- (1) \$5,000 for the Alamance County Dispute Settlement Center;
- (2) \$25,000 for the Charlotte/Mecklenburg Community Relations Committee/Dispute Settlement Program;
- (3) \$10,000 for the Cumberland County Dispute Resolution Center;
- (4) \$10,000 for The Dispute Settlement Center of Cape Fear;
- (5) \$20,000 for the Dispute Settlement Center of Durham, Inc.;
- (6) \$13,500 for the Henderson County Dispute Settlement Center;
- (7) \$10,000 for The Mediation Center in Buncombe County;
- (8) \$30,000 for the Mediation Center of Eastern Carolina to expand into Craven and Carteret Counties;
- (9) \$15,000 for the Mediation Center of Gaston County, Inc.;
- (10) \$15,000 for Mediation Services of Forsyth County;
- (11) \$23,000 for Mediation Services of Guilford County;
- (12) \$44,000 for the Mountain Dispute Settlement Center;
- (13) \$25,000 for the Orange County Dispute Settlement Center;
- (14) \$13,000 for the Transylvania Dispute Settlement Center; and
- (15) \$15,000 for the Robeson County Dispute Resolution Center.

(b) The provisions of subsection (c) of Section 21.5 of Chapter 324 of the 1995 Session Laws shall not apply to the Robeson County Dispute Resolution Center during the 1995-97 biennium.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
DRUG TREATMENT COURTS/FUNDS IN RESERVE

Sec. 21.6. (a) Chapter 7A of the General Statutes is amended by adding a new Subchapter to read:

"SUBCHAPTER XIV. DRUG TREATMENT COURTS.

"ARTICLE 62.

"North Carolina Drug Treatment Court Act.

"§ 7A-790. Short title.

This Article shall be known and may be cited as the 'North Carolina Drug Treatment Court Act of 1995'.

"§ 7A-791. Purpose.

The General Assembly recognizes that a critical need exists in this State for criminal justice system programs that will reduce the incidence of drug use and drug addiction and crimes committed as a result of drug use and drug addiction. It is the intent of the General Assembly by this Article to create a program to facilitate the creation of drug treatment court pilot programs in a minimum of two judicial districts.

"§ 7A-792. Goals.

The goals of the drug treatment court programs funded under this Article include the following:

- (1) To reduce alcoholism and other drug dependencies among offenders;
- (2) To reduce recidivism;
- (3) To reduce the drug-related court workload;
- (4) To increase the personal, familial, and societal accountability of offenders; and
- (5) To promote effective interaction and use of resources among criminal justice personnel and community agencies.

"§ 7A-793. Establishment of Program.

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation of drug treatment court programs and the funding of pilot drug treatment court programs. Drug treatment court programs funded pursuant to this Article shall be operated consistent with the guidelines promulgated by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee established in G.S. 7A-795. In promulgating the guidelines, the Director and the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force.

"§ 7A-794. Fund administration.

The Drug Treatment Court Program Fund is created in the Administrative Office of the Courts and is administered by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee. The Director of the Administrative Office of the Courts shall award grants from this Fund and implement drug treatment court programs in a minimum of two judicial districts. Grants shall be awarded based upon the general guidelines set forth by the Director of the Administrative Office of the Courts and the State Drug Treatment Court Advisory Committee.

"§ 7A-795. State Drug Treatment Court Advisory Committee.

The State Drug Treatment Court Advisory Committee is established to develop guidelines for the drug treatment court program and to monitor programs wherever they are implemented. The Committee shall be chaired by the Director of the Administrative Office of the Courts or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, corrections, and substance abuse treatment communities.

"§ 7A-796. Local drug treatment court management committee

Each judicial district choosing to establish a drug treatment court or applying to participate in a funded pilot program shall form a local drug treatment court management committee, consisting of the following persons, appointed by the senior resident superior court judge with the concurrence of the district attorney for that district:

- (1) A judge of the superior court;
- (2) A judge of the district court;
- (3) A district attorney or assistant district attorney;
- (4) A public defender or assistant public defender in judicial districts served by a public defender;
- (5) A member of the private criminal defense bar;
- (6) A clerk of superior court;
- (7) The trial court administrator in judicial districts served by a trial court administrator;
- (8) A probation officer;
- (9) A local law enforcement officer;
- (10) A representative of the local community college;
- (11) A representative of the treatment providers;
- (12) The local program director provided for in G.S. 7A-798; and
- (13) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court.

"§ 7A-797. Eligible population; drug treatment court procedures.

The Director of the Administrative Office of the Courts, in conjunction with the State Drug Treatment Court Advisory Committee, shall develop criteria for eligibility and other procedural and substantive guidelines for drug treatment court operation.

"§ 7A-798. Drug treatment court grant application; local program director.

(a) Grant applications for the pilot programs shall be submitted to the Director of the Administrative Office of the Courts, in such form and with such information as the Director may require consistent with the provisions of this Article. Grants shall be awarded to two or more judicial districts that submit the most comprehensive and feasible plans for the implementation and operation of a drug treatment court. The Director shall award and administer grants in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and may adopt rules for the implementation, operation, and monitoring of grant-funded programs.

(b) Grant applications shall specify a local program director who shall be responsible for local administration of the project. Grant funds may be used to fund a full-time or part-time local program director position. The local program director may be an employee of the grant recipient, an employee of the court, or a grant-established position under the senior resident superior court judge or chief district court judge.

"§ 7A-799. Treatment not guaranteed.

Nothing contained in this Article shall confer a right or an expectation of a right to treatment for a defendant or offender within the criminal justice system.

"§ 7A-800. Payment of costs of treatment program.

Each defendant shall contribute to the cost of the substance abuse treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee.

"§ 7A-801. Plan for evaluation.

Each grant application requesting funding for the pilot program shall include a method for evaluating the pilot program's effectiveness, based upon the goals stated in G.S. 7A-792. Each funded program shall submit evaluation reports to the Administrative Office of the Courts as requested. Additionally, the Administrative Office of the Courts shall be responsible for developing an evaluation model on the State level to compare the effectiveness of all pilot programs and shall submit a report to the General Assembly by May 1, 1998."

(b) Funds to implement and evaluate the pilot programs established under the North Carolina Drug Treatment Court Act shall be allocated from the reserve of eight hundred thousand dollars (\$800,000) created in Section 41 of Chapter 24 of the Session Laws of the 1994 Extra Session. These funds shall be used primarily to provide substance abuse treatment, but the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year shall be used to fund systemwide equipment needs and the sum of forty-three thousand seven hundred seventy-five dollars (\$43,775) for the 1995-96 fiscal year and the sum of fifty-two thousand five hundred fifty-one thousand dollars (\$52,551) for the 1996-97 fiscal year may be used to fund one program administrator position.

(c) Subsection (a) of this section becomes effective July 1, 1995, and expires June 30, 1998. The remainder of this section becomes effective October 1, 1995.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

ADD ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

Sec. 21.7. G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck,	7-8

	Dare, Gates, Pasquotank, Perquimans	
2	Beaufort, Hyde, Martin, Tyrrell, Washington	4
3A	Pitt	6 <u>7</u>
3B	Carteret, Craven, Pamlico	6
4	Duplin, Jones, Onslow, Sampson	10
5	New Hanover, Pender	9
6A	Halifax	3
6B	Bertie, Hertford, Northampton	3
7	Edgecombe, Nash, Wilson	10
8	Greene, Lenoir, Wayne	8
9	Franklin, Granville, Vance, Warren	7 <u>8</u>
9A	Person, Caswell	2
10	Wake	19 <u>20</u>
11	Harnett, Johnston, Lee	9 <u>10</u>
12	Cumberland	12
13	Bladen, Brunswick, Columbus	6
14	Durham	9
15A	Alamance	6
15B	Orange, Chatham	5
16A	Scotland, Hoke	3
16B	Robeson	7
17A	Rockingham	4
17B	Stokes, Surry	4
18	Guilford	17 <u>18</u>
19A	Cabarrus	4
19B	Montgomery, Randolph	5
19C	Rowan	4
20	Anson, Moore, Richmond, Stanly, Union	11 <u>12</u>
21	Forsyth	12
22	Alexander, Davidson, Davie, Iredell	11
23	Alleghany, Ashe, Wilkes, Yadkin	4
24	Avery, Madison, Mitchell, Watauga, Yancey	3
25	Burke, Caldwell, Catawba	11
26	Mecklenburg	23 <u>24</u>
27A	Gaston	8

27B	Cleveland, Lincoln	5
28	Buncombe	8
29	Henderson, McDowell, Polk, Rutherford, Transylvania	8
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	6

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

MEDIATED SETTLEMENT CONFERENCE FUNDS

Sec. 21.8. Of the funds appropriated to the Judicial Department for the 1995-96 fiscal year, the sum of sixty thousand seventeen dollars (\$60,017) shall be used to support the operation of the Dispute Resolution Commission to carry out the Mediated Settlement Conferences program. Any fees collected pursuant to G.S. 7A-38.2(d) shall be placed in a reserve and may not be expended until the 1996-97 fiscal year.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser

CRIMINAL CASE MANAGEMENT FUNDS

Sec. 21.10. Of the funds appropriated to the Judicial Department for the 1995-97 biennium, the Administrative Office of the Courts shall use the sum of fifty thousand dollars (\$50,000) for the 1995-96 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 1996-97 fiscal year to establish a criminal case management pilot program in the Twelfth and Thirteenth Judicial Districts to help reduce the backlog of court cases and resolve new court cases quicker. A case management facilitator position shall be added to the district attorney's office in both of those judicial districts to help implement the pilot program and the positions shall be filled after consultation with the Senior Resident Superior Court Judges in both of those judicial districts.

The Administrative Office of the Courts shall report by May 1, 1996 to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the pilot program.

PART 22. DEPARTMENT OF JUSTICE

Requested by: Senators Ballance, Rand, Plyler, Perdue, Odom, Representatives Justus, Thompson, Kiser, Holmes, Creech, Esposito

DEPARTMENT OF JUSTICE RECORD CHECKS STAFF AND FIREARMS TRAINING FUNDS

Sec. 22. (a) Of the funds appropriated in this act to the Department of Justice for the 1995-97 biennium, the sum of two hundred ninety-seven thousand four hundred seventy-three dollars (\$297,473) may be used to add nine positions in the State Bureau of Investigation to facilitate record checks that are performed as a result of legislation ratified during the 1995 Session.

(b) The Department of Justice may use, for each year of the 1995-97 biennium, the sum of up to three hundred seventy-nine thousand two hundred eighty-seven dollars (\$379,287) to add 15 positions in the State Bureau of Investigation to facilitate record checks for concealed weapons permits. The Office of State Budget and Management may adjust the allotment of appropriations to the Department of Justice until receipts are realized. If the number of criminal record checks performed by the Department of Justice falls below the level of 10,000 checks per one and one-half positions, the number of positions performing records checks shall be reduced by the Department accordingly.

(c) The Department of Justice may charge a fee for the reasonable costs of the firearms safety courses required for a concealed weapon permit. The Department of Justice may use up to one hundred thousand dollars (\$100,000) of its State appropriations to pay the costs of developing standards and implementing firearms safety courses until receipts from the courses are sufficient and available to pay the cost of those courses.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
CONCEALED WEAPON PERMITS

Sec. 22.1. (a) G.S. 14-415.19 as enacted by Chapter 398 of the 1995 Session Laws reads as rewritten:

"§ 14-415.19. Fees.

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer ~~to be used to pay the costs of the criminal record checks and investigations required under this Article.~~ to be remitted or credited by the county finance officer in accordance with the provisions of this subsection. The permit fees are as follows:

Application fee	\$50.00 \$80.00
Renewal fee	\$50.00 \$80.00
Duplicate permit fee	\$15.00

The county finance officer shall remit sixty dollars (\$60.00) of each application or renewal fee to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining twenty dollars (\$20.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(b) An additional fee, not to exceed ten dollars (\$10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's fingerprints. This fee shall be retained by the ~~law enforcement office that processes the fingerprints.~~ sheriff."

(b) G.S. 14-415.13(a) reads as rewritten:

"(a) A person shall apply to the sheriff of the county in which the person resides to obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the following:

- (1) An application, completed under oath, on a form provided by the sheriff.
 - (2) A nonrefundable permit fee.
 - (3) A full set of fingerprints of the applicant administered by ~~a law enforcement agency of this State~~ the sheriff.
 - (4) An original certificate of completion of an approved course, adopted and distributed by the North Carolina Criminal Justice Education and Training Standards Commission, signed by the certified instructor of the course attesting to the successful completion of the course by the applicant which shall verify that the applicant is competent with a handgun and knowledgeable about the laws governing the carrying of a concealed handgun and the use of deadly force.
 - (5) A release, in a form to be prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant."
- (c) G.S. 14-415.11(b) reads as rewritten:

"(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of ~~three~~ four years from the date of issuance."

(d) The Department of Justice shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Co-chairs of the Joint Appropriations Committee, and the Co-chairs of the Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal record checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

(e) This section becomes effective December 1, 1995.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
CONCEALED WEAPON PERMIT RENEWAL

Sec. 22.2. (a) G.S. 14-415.13(b) reads as rewritten:

"(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for a records check of State and national databases. The State Bureau of Investigation shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The cost of processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-415.19. ~~The fingerprints of an applicant who is issued a permit shall be retained for future use in the event the permit is renewed, and shall be retained until any valid permit expires and is not renewed.~~"

(b) G.S. 14-415.16 reads as rewritten:

"§ 14-415.16. Renewal of permit.

The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration date by filing with the sheriff of the county in which the person resides a renewal form provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified under the criteria provided in this Article, a newly

administered full set of the permittee's fingerprints, and a renewal fee. Upon receipt of the completed renewal application and application, including the permittee's fingerprints, and the appropriate payment of fees, the sheriff shall determine if the permittee remains qualified to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's criminal history shall be updated, and the sheriff may waive the requirement of taking another firearms safety and training course. If the permittee applies for a renewal of the permit within 30 days of its expiration date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff shall renew the permit."

(c) This section becomes effective December 1, 1995.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

Sec. 22.4. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina system.

PART 23. DEPARTMENT OF HUMAN RESOURCES

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford
PHYSICIAN SERVICES

Sec. 23.1. With the approval of the Office of State Budget and Management, the Department of Human Resources may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with constituent institutions of The University of North Carolina.

Requested by: Representatives Gardner, Hayes, Nye, Senators Martin of Guilford, Forrester

AREA AUTHORITY ACCOUNTABILITY/STATE ACTION

Sec. 23.2. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new sections to read:

"§ 122C-124. Area Authority funding suspended.

The Secretary of the Department of Human Resources may suspend funding to any area authority with a revenue or expenditure budget variance of ten percent (10%) or a significant deterioration in the fund balance of the authority's general fund. A significant deterioration of fund balance is defined as a twenty-five percent (25%) decrease in the balance from one fiscal year to the next without the prior approval of the Department. Area authorities shall report any such revenue or expenditure variance or deterioration in fund balance to the Department of Human Resources within 30 days of

its occurrence. In the event that funding is suspended, the Department of Human Resources may contract with, and make payments of Department funds on an interim basis directly to, a contract provider of the area authority to avoid the disruption of direct services to clients.

Upon suspension of funding, the Department shall, in conjunction with the area authority, develop and implement a corrective plan of action and provide notification to the area authority's board of directors of the plan. The Department shall also keep the county board of commissioners and the area authority's board of directors informed of any ongoing concerns or problems with the area authority's finances.

"§ 122C-125. Area Authority financial failure; State assumption of financial control.

At any time that the Secretary of the Department of Human Resources determines that an area authority is in imminent danger of failing financially and of failing to provide direct services to clients, the Secretary may assume control of the financial affairs of the area authority and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority of its powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred in the area authority by law. County funding of the area authority shall continue when the State has assumed control of the financial affairs of the area authority. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority. The Secretary shall adopt rules to define imminent danger of failing financially and of failing to provide direct services to clients.

Upon assumption of financial control, the Department shall, in conjunction with the area authority, develop and implement a corrective plan of action and provide notification to the area authority's board of directors of the plan. The Department shall also keep the county board of commissioners and the area authority's board of directors informed of any ongoing concerns or problems with the area authority's finances.

"§ 122C-126. Area authority caretakers appointed.

In the event that an area authority fails to comply with the corrective plan of action required pursuant to G.S. 122C-124 when funding is suspended or pursuant to G.S. 122C-125 when the State assumes financial control of the area authority, the Secretary of the Department of Human Resources shall appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the director of the area authority and of the board of directors and the caretaker board to the caretaker administrator as it deems necessary and appropriate to continue to provide direct services to clients, including the powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority by law. County funding of the area authority shall continue when the State has assumed control of the financial affairs of the area authority. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority. The caretaker administrator and the caretaker board shall perform all of these powers and duties. The Secretary may terminate the contract of any director when it

appoints a caretaker administrator. The Administrative Procedure Act shall apply to any such decision. Neither party to any such contract shall be entitled to damages.

After a caretaker board has been appointed, the General Assembly shall consider, at its next regular session, the future governance of the identified area authority."

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

AREA AUTHORITY BOARD TRAINING

Sec. 23.3. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by inserting the following new section to read:

"§ 122C-119.1. Area Authority board members' training.

All members of an area authority's board of directors shall receive initial orientation on board members' responsibilities and training provided by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Human Resources in fiscal management, budget development, and fiscal accountability. A member's refusal to be trained may be grounds for removal from the board."

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

CONFIDENTIAL CLIENT INFORMATION SHARING CLARIFIED

Sec. 23.4. G.S. 122C-53(i) reads as rewritten:

"(i) Upon the request of a client, (i) a client who is an adult and who has not been adjudicated incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, or (ii) the legally responsible person for any other client, a facility shall disclose to an attorney confidential information relating to that client."

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

NONMEDICAID REIMBURSEMENT CHANGES

Sec. 23.5. Section 23.16 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 23.16. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults with mental retardation and mental illness may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of Human Resources may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Human Resources may negotiate with providers of medical services under the various Department of Human Resources 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>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	7,824	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind and for adults in the Clozaril Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Clozaril Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of Clozaril and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Clozaril Program for those enrollees who become gainfully employed is as follows:

<u>Income (% of poverty)</u>	<u>State Participation</u>	<u>Client Participation</u>
<u>0-100%</u>	<u>100%</u>	<u>0%</u>
<u>101-120%</u>	<u>95%</u>	<u>5%</u>
<u>121-140%</u>	<u>85%</u>	<u>15%</u>
<u>141-160%</u>	<u>75%</u>	<u>25%</u>
<u>161-180%</u>	<u>65%</u>	<u>35%</u>
<u>191-180%</u>	<u>65%</u>	<u>35%</u>
<u>201-220%</u>	<u>45%</u>	<u>55%</u>
<u>221-240%</u>	<u>35%</u>	<u>65%</u>
<u>241-260%</u>	<u>25%</u>	<u>75%</u>
<u>261-280%</u>	<u>15%</u>	<u>85%</u>
<u>281-300%</u>	<u>5%</u>	<u>95%</u>
<u>301%-over</u>	<u>0%</u>	<u>100%</u>

The Department of Human Resources shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department."

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

BLUE RIBBON TASK FORCE ON THE ISSUE OF THE POTENTIAL IMPACT OF FEDERAL BLOCK GRANT FUNDING AND OTHER FEDERAL ACTIONS ON MEDICAID IN NORTH CAROLINA.

Sec. 23.5A. (a) There is established in the General Assembly a Blue Ribbon Task Force on the issue of the potential impact of federal block grant funding and other federal actions on Medicaid in North Carolina. The task force's study shall include:

- (1) An examination of the potential impacts on all of North Carolina's diverse populations effected by Medicaid and on all of North Carolina's organizations that provide programs and services related to Medicaid;
- (2) A determination of the fiscal and organizational adjustments that would need to be made to balance each of the potential impacts;
- (3) A recommendation of how best the General Assembly may address Medicaid and related issues; and
- (4) Any other Medicaid-related issues.

(b) The task force shall be composed of 12 members, six of whom shall be members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives, and six of whom shall members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a member from their appointments to serve as cochair of the task force. Meetings shall be called at the will of the cochairs.

All members shall serve at the will of their appointing officer. Unless removed or unless resigning, members shall serve until the task force has made its report. Vacancies in membership shall be filled by the appropriate appointing officer.

(c) The task force may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the task force. The professional staff shall include the appropriate staff from the Fiscal Research, Research, and Legislative Drafting Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the task force through the offices of House of Representatives and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the task force. The task force may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The task force, while in the discharge of official duties, may exercise all the powers provided under the provisions

of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information and any data within their possession or ascertainable from their records, and the power to subpoena witnesses.

Members of the task force shall receive per diem, subsistence, and travel allowances pursuant to G.S. 120-3.1 or Chapter 138, if a member leaves the General Assembly prior to the termination of the task force and remains on the task force.

(d) The task force shall report the results of its study, together with any legislative proposals and cost analyses, to the 1995 General Assembly, Regular Session 1996, within a week of its convening or to a special session of the 1995 General Assembly called to deal with federal block grant funding issues.

Requested by: Representatives Gardner, Hayes, Nye, Senators Martin of Guilford, Forrester

CONTINUATION BUDGET AFDC OPTION ELIMINATIONS EFFECTIVE DATE

Sec. 23.8. The eliminations of the options in the AFDC Program affecting (i) AFDC for pregnant women in their third trimester, (ii) AFDC for 18 year old children who are in school, and (iii) State Supplemental Payments to AFDC households due to the retrospective budgeting requirement made by Chapter 324 of the 1995 Session Laws shall be effective August 1, 1995.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

CLARIFICATION OF LIMITATIONS ON STATE ABORTION FUND

Sec. 23.8A. Subsection (b) of Section 23.27 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(b) Eligibility for services of the State Abortion Fund shall be limited to women whose income is below the federal poverty level, as revised annually, ~~or~~ and who are not eligible for Medicaid. The State Abortion Fund shall be used to fund abortions only to terminate pregnancies resulting from cases of rape or incest, or to terminate pregnancies that, in the written opinion of one doctor licensed to practice medicine in North Carolina, endanger the life of the mother."

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

CONTINUATION OF THE LEGISLATIVE STUDY OF THE EFFECT OF FEDERAL BUDGETARY POLICY ON WELFARE REFORM

Sec. 23.8B. (a) The Legislative Study Commission on Welfare Reform, established by Section 47 of Chapter 24, 1993 Session Laws, Extra Session 1994, is continued. Subsections (d) and (e) of Section 47 of Chapter 24, 1993 Session Laws, Extra Session 1994, are repealed. The Commission's continued study shall focus on the effects of federal budgetary policy on welfare reform.

(b) The continued Legislative Study Commission on Welfare Reform shall submit a final report to the General Assembly on or before the first day of the 1995 General Assembly, Regular Session 1996, or on or before the first day of any extra session of the 1995 General Assembly called specifically to address welfare reform. Upon filing its final report, the Commission shall terminate, unless reauthorized by the General Assembly.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

CLARIFICATION OF AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE FUNDS

Sec. 23.9. In addition to providing board payments to foster families of HIV-infected children as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated in Chapter 324 of the 1995 Session Laws for this purpose shall be used as follows:

- (1) To provide medical training in avoiding HIV transmission in the home; and
- (2) To transfer funds to the Department of Environment, Health, and Natural Resources to create three social work positions within the Department of Environment, Health, and Natural Resources, for the eastern part of North Carolina to enable the case-managing of families with HIV-infected children so that the children and the parents get access to medical care and so that child protective services issues are addressed rapidly and effectively. The three positions shall be medically based and located:
 - a. One in the northeast, covering Northampton, Hertford, Halifax, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Bertie, Wilson, Edgecombe, and Nash Counties;
 - b. One in the central east, covering Martin, Pitt, Washington, Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and Pamlico Counties; and
 - c. One in the southeast, covering New Hanover, Robeson, Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen, and Columbus Counties.

Requested by: Senators Perdue, Plyler, Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

ADULT CARE HOME REIMBURSEMENT RATE/ADULT CARE HOME ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS

Sec. 23.10. (a) Effective July 1, 1995, the maximum monthly rate for residents in adult care home facilities shall be nine hundred seventy-five dollars (\$975.00) per month for ambulatory residents and one thousand seventeen dollars (\$1,017) per month for semiambulatory residents.

(b) Effective August 1, 1995, the maximum monthly rate for residents in adult care home facilities shall be eight hundred forty-four dollars (\$844.00) per month per resident.

(c) Effective August 1, 1995, the Department of Human Resources may use the remaining funds available from the State/County Special Assistance appropriation to provide:

(1) Needed Medicaid-covered services, specifically one hour of personal care services per day to all Medicaid-eligible residents and a maximum of 50 additional hours per month of personal care services for residents who require heavy care;

(2) Funds to the area mental health authorities to provide wraparound services for adult home care residents with mental health conditions;

(3) Funds for the implementation of the provisions of G.S. 131D-4.1 and G.S. 131D-4.2, including funds for necessary additional staff.

(d) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible.

(e) Effective August 1, 1995, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of the nonfederal costs of Medicaid services paid to adult care home facilities. As Medicaid personal care requirements increase, the county matching share shall be capped until it equals fifteen percent (15%) of the nonfederal Medicaid personal care requirements.

(f) To maximize Medicaid funding, the Department of Human Resources may take the temporary measures necessary to implement Medicaid funding during the period from August 1, 1995, through September 30, 1995. This authorization includes authorization to continue payment of State/County Assistance at the July 1995 rates until the Health Care Financing Administration approval of Medicaid personal care services with future recoupment from providers of an amount equal to the difference between the July 1995 rates and the August 1995 rates.

Requested by: Representatives Creech, Hayes, Gardner, Senator Martin of Guilford

DOMICILIARY CARE REPORT

Sec. 23.11A. The Secretary of the Department of Human Resources shall report quarterly, beginning October 1, 1995, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office on the planning and status of implementation of the following:

(1) Rate setting and financing of domiciliary care, including the use of Medicaid funds for personal care services;

(2) Quality assurance and enhancement of domiciliary care, including case management for residents with special care needs, monitoring of domiciliary care facilities and specialized training of direct care staff; and

- (3) The process for the evaluation of the Domiciliary Care Financing and Quality Assurance Program.

Requested by: Senators Perdue, Plyler, Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

LIMITATION ON USE OF SPECIAL ALZHEIMER'S UNIT IN WILSON

Sec. 23.11B. The Special Alzheimer's Unit established in Wilson by funds appropriated in this act shall serve only those clients who cannot be served by any similar private facility.

Requested by: Senators Perdue, Plyler, Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye, Holmes, Creech, Esposito

ALZHEIMER'S ASSOCIATION OF NORTH CAROLINA FUNDS

Sec. 23.11C. Of the funds appropriated to the Division of Aging, Department of Human Resources, in this act, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year shall be divided equally among the four chapters of the Alzheimer's Association of North Carolina, which are the Western Alzheimer's Chapter, the Southern Piedmont Alzheimer's Chapter, the Eastern Alzheimer's Chapter, and the Triad Alzheimer's Chapter. Each Chapter shall submit to the Division of Aging, for approval, a plan for the use of these funds, prior to receipt of these funds.

Requested by: Senators Perdue, Plyler, Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye, Holmes, Creech, Esposito

IN-HOME AIDE FUNDS

Sec. 23.11D. Of the funds appropriated to the Division of Aging, Department of Human Resources, in this act, the sum of five hundred thousand dollars (\$500,000) for the 1995-96 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 1996-97 fiscal year shall be allocated via the Home and Community Care Block Grant and used to fund in-home aide services and caregiver support services. These funds shall be used only for direct services.

Requested by: Senators Perdue, Plyler, Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye, Holmes, Creech, Esposito

SERVICES TO OLDER ADULTS, ADULTS WITH DISABILITIES, AT-RISK CHILDREN AND YOUTH, AND FAMILIES

Sec. 23.11E. Of the funds appropriated to the Department of Human Resources in this act for the 1995-96 fiscal year, the sum of two million dollars (\$2,000,000) shall be allocated as grants-in-aid to public and private nonprofit human services organizations for programs that provide services, including vocational rehabilitation services, to older adults, adults with disabilities, at-risk children and youth, and families. Prior to any allocation, programs requesting funds shall submit a plan to the Department detailing the use of these funds.

Requested by: Senators Plyler, Perdue, Odom, Martin of Guilford, Representatives Gardner, Hayes, Nye

INDEPENDENT LIVING REHABILITATION FUNDS

Sec. 23.11F. (a) The Division of Vocational Rehabilitation Services, Department of Human Resources, shall expand the Independent Living Rehabilitation Program by establishing a new office in Stanly County in 1995-96, by providing for the service needs of eligible citizens served in existing program offices, and by providing adequate administrative support to existing offices and the new offices established pursuant to this section.

(b) Any funds appropriated in this act for the 1995-96 fiscal year for the purpose specified in subsection (a) of this section that are not required to be expended or encumbered for this purpose may be used during the 1995-96 fiscal year for one-time service purchases for Independent Living Rehabilitation Program clients waiting for services in existing offices.

Requested by: Representatives Dickson, Gardner, Hayes, Senators Martin of Guilford, Forrester

PRIMARY CARE FUNDS

Sec. 23.12. The Department of Human Resources may combine and allocate funds appropriated for the Office of Rural Health and Resource Development for recruitment and retention of primary care providers in medically underserved areas into one Provider Incentive Fund. Funds in the Provider Incentive Fund may be allocated for purposes of enhancing recruitment and retention of primary care providers in medically underserved areas and for other purposes related to the enhancement of health services to medically underserved communities.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

MODIFIED WILDERNESS EDUCATION CAMP PROGRAM

Sec. 23.13. Of the three million thirty-six thousand three hundred fifty-two dollars (\$3,036,352) appropriated in Chapter 324 of the 1995 Session Laws for two additional Wilderness Camps approved by the 1993 General Assembly, Extra Session 1994, one million five hundred eighteen thousand one hundred seventy-six dollars (\$1,518,176) shall be used to fund a Modified Wilderness Education Camp Program in the Department of Human Resources that shall emphasize education for juveniles under the age of 16 referred by the public schools. If the Modified Wilderness Education Camp is discontinued, funds for this purpose shall be directed to operate a traditional Wilderness Camp Program.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

DETENTION FACILITY CONSTRUCTION FUNDS

Sec. 23.15. Of the funds appropriated to the Department of Human Resources in Chapter 24 of the 1993 Session Laws, Extra Session 1994, for construction of a 24-bed juvenile detention facility in Wake County, the Department of Human

Resources may use the sum of one million six hundred thousand dollars (\$1,600,000) to construct a 24-bed facility at any available location in the State.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

**FAMILY SUPPORT/DEAF AND HARD OF HEARING SERVICES
CONTRACT**

Sec. 23.17. (a) Of the funds appropriated to the Division of Services for the Deaf and Hard of Hearing, Department of Human Resources, in Chapter 324 of the 1995 Session Laws for family support services, the sum of five hundred thousand dollars (\$500,000) for each fiscal year of the biennium shall be used to contract with a private, nonprofit corporation licensed to do business in North Carolina to perform those services currently being offered by the Family Resource Centers within the Division of Services for the Deaf and Hard of Hearing, including family support and advocacy services as well as technical assistance to professionals who work with families of hearing impaired children.

(b) The Office of State Budget and Management shall perform a performance audit of the private, nonprofit contract program at the end of this first year. In conducting the audit, the Office of State Budget and Management shall use the field work standards for performance audits as published by the Comptroller General of the United States. The Office of State Budget and Management shall report the results of this audit to the General Assembly, the Fiscal Research Division of the Legislative Services Office, and the Department of Human Resources by December 1, 1996.

(c) From funds appropriated in Chapter 324 of the 1995 Session Laws for the 1995-96 fiscal year to the Division of Services for the Deaf and Hard of Hearing, Department of Human Resources, for early intervention services, the Division shall develop, with participation from the Department of Public Instruction, the Department of Environment, Health, and Natural Resources, and Beginnings, Inc., (i) a comprehensive plan for early intervention, outreach, evaluation, and training to serve deaf education statewide and (ii) a plan to use the Central North Carolina School for the Deaf in Greensboro as a statewide resource.

Requested by: Representatives Gardner, Hayes, Nye, Senators Martin of Guilford, Forrester

DEAF EDUCATION IMPROVEMENTS

Sec. 23.18. Of the funds appropriated to the Division of Services for the Deaf and Hard of Hearing, Department of Human Resources, in this act, the sum of five hundred thousand dollars (\$500,000) for the 1995-96 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) for the 1996-97 fiscal year shall be used to improve the quality of public education that the State provides to deaf and hard of hearing children through the three North Carolina Schools for the Deaf in Morganton, Greensboro, and Wilson. These improvements shall include additional staff for curriculum enhancement, expansion of the extended school year program, and

establishment of programs for behaviorally and emotionally handicapped (BEH) deaf and hard of hearing children and for post-secondary enrichment.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

ANNUAL REPORT ON CARING PROGRAM FOR CHILDREN, INC.

Sec. 23.19A. The Caring Program for Children, Inc., shall report annually by May 1 to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, beginning with May 1, 1996, on its program for providing health care for children.

This report shall include the number of children served and the cost per child served.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

BRaille LITERACY FUNDS

Sec. 23.21. Of the funds appropriated in this act to the Division of Services for the Blind, Department of Human Resources, the sum of one hundred seventy-five thousand dollars (\$175,000) for the 1995-96 fiscal year and the sum of one hundred seventy-five thousand dollars (\$175,000) for the 1996-97 fiscal year, shall be used for braille literacy, for up to four professionals certified as teachers of the visually impaired to assist local school administrative units primarily in rural areas of the State in providing appropriate services for students who are visually impaired.

Requested by: Senators Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

EMERGENCY BACKUP FOR HEART-LUNG BYPASS MACHINE

Sec. 23.22. The acquisition of a second heart-lung bypass machine by a health service facility that has only one heart-lung bypass machine is exempt from review under Article 9 of Chapter 131E of the General Statutes, in order to ensure appropriate coverage for emergencies. In no instance shall both machines be scheduled for use simultaneously after the second machine is acquired.

Requested by: Senators Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

THOMAS S. LAWSUIT COMPLIANCE

Sec. 23.23. The Department of Justice and the Department of Human Resources shall pursue all administrative and legal options necessary to enable the State to resolve the Thomas S. lawsuit in the most expeditious and cost-effective manner possible and to seek elimination of the necessity for oversight by a special master.

Requested by: Senators Odom, Martin of Guilford, Forrester, Representatives Gardner, Hayes, Nye

MENTAL HEALTH STUDY COMMISSION STUDY OF FUNDING FOR SINGLE PORTAL OF ENTRY AND EXIT FOR DEVELOPMENTAL DISABILITIES SERVICES OF AREA MENTAL HEALTH AUTHORITIES

Sec. 23.24. The Mental Health Study Commission shall study the issue of how the mandate for a single portal of entry and exit for developmental disabilities services of area mental health authorities should be funded. The Commission shall include the results of this study in its report to the 1995 General Assembly, Regular Session 1996.

Requested by: Senators Odom, Plyler, Perdue, Martin of Guilford, Forrester, Representatives Shubert, Holmes, Creech, Esposito, Gardner, Hayes, Nye
MANDATE CRIMINAL HISTORY CHECKS OF CHILD DAY CARE PROVIDERS AND STUDY USE OF CENTRAL REGISTRY ON CHILD ABUSE AND NEGLECT

Sec. 23.25. (a) Article 7 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-90.2. Mandatory day care providers' criminal history checks.

(a) For purposes of this section:

- (1) 'Child day care', notwithstanding the definition in G.S. 110-86, means any child day care provided in child day care facilities and child day care homes, including child day care facilities and child day care homes required to be licensed or registered under this Article and nonregistered child day care homes approved to receive or receiving State or federal funds for providing child day care.
- (2) 'Child day care provider' means a person who:
 - a. Is employed by or seeks to be employed by a child day care facility or child day care home providing child day care as defined in subdivision (1) of this subsection; or
 - b. Owns or operates or seeks to own or operate a child day care facility or child day care home providing child day care as defined in subdivision (1) of this subsection.
- (3) 'Criminal history' means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children as set forth in G.S. 110-90.1. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in

violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) Effective January 1, 1996, the Department shall ensure that the criminal history of all child day care providers is checked and a determination is made of the child day care provider's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Department shall ensure that child day care providers who have lived in North Carolina continuously for the previous five years are checked for county and State criminal histories. The Department shall ensure that all other child day care providers are checked for county, State, and national criminal histories. The Department may prohibit a child day care provider from providing child day care if the Department determines that the child day care provider is unfit to have responsibility for the safety and well-being of children based on the criminal history, in accordance with G.S. 110-90.1.

(c) The Department of Justice shall provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories of any child day care provider as requested by the Division.

The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories signed by the child day care provider to be checked. The fingerprints of the provider shall be forwarded to the State Bureau of Investigation for a search of their criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

At the time of application the day care provider whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

'NOTICE

CHILD DAY CARE PROVIDER
MANDATORY CRIMINAL HISTORY CHECK

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS WHO PROVIDE CHILD DAY CARE IN A LICENSED OR REGISTERED CHILD DAY CARE FACILITY, AND ALL PERSONS PROVIDING CHILD DAY CARE IN NONREGISTERED CHILD DAY CARE HOMES THAT RECEIVE STATE OR FEDERAL FUNDS.

"Criminal history" includes county, state, and federal convictions or pending indictments of any of the following crimes: the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well-being of children, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If you disagree with the determination of the North Carolina Department of Human Resources on your fitness to provide child day care, you may file a civil lawsuit in the district court in the county where you live.

Any child day care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.'

Refusal to consent to a criminal history check is grounds for the Department to prohibit the child day care provider from providing child day care. Any child day care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.

(d) The Department shall notify in writing the child day care provider, and the child day care provider's employer, if any, of the determination by the Department whether the day care provider is qualified to provide child day care based on the child day care provider's criminal history. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of the child day care provider's criminal history to the child day care provider or the child day care provider's employer. The Department shall also notify the child day care provider of the procedure for completing or challenging the accuracy of the criminal history and the child day care provider's right to contest the Department's determination in court.

A child day care provider who disagrees with the Department's decision may file a civil action in the district court of the county of residence of the child day care provider.

(e) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to

receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of an employer of a child day care provider, an owner or operator of a child day care home or facility, a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(g) The child day care provider who seeks to be employed in child day care and the child day care provider who seeks to own or operate child day care shall pay the cost of the fingerprinting and the local check at the time the child day care provider seeks to provide child day care. The Department of Justice shall perform the State criminal history check. The Department of Human Resources shall bear the costs of obtaining the State criminal history check. If the Department determines that a day care provider who has lived continuously in the State less than five years is not disqualified based on the local and State criminal history record check, the Department shall request a criminal history check from the National Repository of Criminal History from the Department of Justice. The Department of Human Resources shall pay the cost for the national criminal history record check."

(b) Article 2 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.5. Criminal record checks of child day care providers.

The Department of Justice may provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child day care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child day care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Department of Justice shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section."

(c) The North Carolina Child Day Care Commission shall adopt rules to implement this section, in consultation with the Divisions of Child Development and Social Services of the Department of Human Resources, and the Division of Criminal Information of the Department of Justice.

(d) The Legislative Research Commission shall study the issue of using the records in the Central Registry on Child Abuse and Neglect for the purpose of

conducting records checks of child day care providers. In its study, the Commission shall evaluate current procedures for substantiating claims of child abuse or neglect and for maintaining records in the Central Registry, and shall determine what procedures should be implemented to (i) ensure that records are accurate, (ii) provide appropriate notice to interested parties, (iii) provide for expungement or correction of information, and (iv) provide for release of information. The Commission shall report its findings and recommendations to the 1997 General Assembly.

(e) Subsection (d) of this section is effective upon ratification. The remainder of this section becomes effective January 1, 1996, and as defined in this section, applies to all child day care providers providing child day care as of that date, to all child day care providers newly hired in child day care employment, and to all child day care providers newly owning or operating child day care, on or after that date.

Requested by: Senators Odom, Plyler, Perdue, Martin of Guilford, Forrester, Representatives Shubert, Holmes, Creech, Esposito, Gardner, Hayes, Nye

MANDATE CRIMINAL HISTORY CHECKS OF ALL FOSTER PARENTS IN LICENSED FAMILY FOSTER HOMES

Sec. 23.26. (a) G.S. 131D-10.2 reads as rewritten:

"§ 131D-10.2. Definitions.

For purposes of this Article, unless the context clearly implies otherwise:

- (1) 'Adoption' means the act of creating a legal relationship between parent and child where it did not exist genetically.
- (2) 'Adoptive Home' means a family home approved by a child placing agency to accept a child for adoption.
- (3) 'Child' means an individual less than 18 years of age, who has not been emancipated under the provisions of Article 56 of Chapter 7A of the General Statutes.
- (4) 'Child Placing Agency' means a person authorized by statute or license under this Article to receive children for purposes of placement in residential group care, family foster homes or adoptive homes.
- (5) 'Children's Camp' means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.
- (6) 'Commission' means the ~~Commission for Social Services.~~ Social Services Commission.
- (6a) 'Criminal History' means a county, state, or federal criminal history of conviction or a pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article

26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

- (7) 'Department' means the Department of Human Resources.
- (8) 'Family Foster Home' means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.
- (9) 'Foster Care' means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.
- (9a) 'Foster Parent' means any individual who is 18 years of age or older who permanently resides in a family foster home licensed by the State and any such individual applying to provide family foster care.
- (10) 'Person' means an individual, partnership, joint-stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.
- (11) 'Primarily Educational Institution' means any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.
- (12) 'Provisional License' means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.
- (13) 'Residential Child-Care Facility' means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care.

Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care."

(b) Article 1A of Chapter 131D of the General Statutes is amended by adding a new section to read:

"§ 131D-10.3A. Mandatory criminal checks of foster parents.

(a) Effective January 1, 1996, the Department shall ensure that the criminal histories of all foster parents are checked and a determination of the foster parent's fitness to have responsibility for the safety and well-being of children based on the criminal history is made. The Department shall ensure that, as of the effective date of this act, all foster parents are checked for county, state, and federal criminal histories.

(b) The Department shall ensure that all foster parents who have been checked pursuant to subsection (a) of this section are checked annually upon relicensure for county and State criminal histories.

(c) The Department may prohibit a foster parent from providing foster care by denying or revoking the license to provide foster care if the Department determines that the foster parent is unfit to have responsibility for the safety and well-being of children based on the criminal history.

(d) The Department of Justice shall provide to the Department of Human Resources the criminal history of the foster parent obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the Department of Justice, along with the request, the fingerprints of the foster parent to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the foster parent to be checked. The fingerprints of the foster parent shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(e) At the time of application, the foster parent whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

'NOTICE

**FOSTER PARENT
MANDATORY CRIMINAL HISTORY CHECK**

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS WHO PROVIDE FOSTER CARE IN A LICENSED FAMILY FOSTER HOME.

"Criminal history" includes any county, state, and federal convictions or pending indictments of any crime, of any of the following crimes: the following Articles of Chapter 14 of the General Statutes:

Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well-being of children, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If you are denied licensure or your foster home license is revoked by the Department of Human Resources as a result of the criminal history check, you may request a hearing pursuant to Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

Any foster parent who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.'

Refusal to consent to a criminal history check is grounds for the Department to prohibit the foster parent from providing foster care. Any foster parent who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

(f) The Department shall notify in writing the foster parent and that individual's supervising agency of the determination by the Department of whether the foster parent is qualified to provide foster care based on the foster parent's criminal history. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of the foster parent's criminal history to the foster parent. The Department shall also notify the foster parent of the foster parent's right to review the criminal history information, the procedure for completing or challenging the accuracy of the criminal history, and the foster parent's right to contest the Department's determination.

A foster parent who disagrees with the Department's decision may request a hearing pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(g) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to

receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(h) There is no liability for negligence on the part of a supervising agency, or a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(i) The Department of Justice shall perform the State and national criminal history checks on foster parents and shall charge the Department of Human Resources a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Human Resources, shall bear the costs of implementing this section."

(c) Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.4. Criminal record checks of foster parents.

The Department of Justice may provide to the Division of Social Services, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 131D-10.2(6a). The Division shall provide to the Department of Justice, along with the request, the fingerprints of the foster parent to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the foster parent to be checked. The fingerprints of the foster parent shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 131D-10.3A(g). The Department of Justice shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section."

(d) The Department of Human Resources and the Social Services Commission, upon consultation with the Division of Social Services of the Department of Human Resources and the Division of Criminal Information of the Department of Justice, shall adopt rules to implement this act.

(e) Subsections (a), (b), and (c) of this section become effective January 1, 1996, and apply to foster parents providing care on or after that date, to applicants for foster parent licenses on or after that date, and to foster parents whose licenses are being considered for renewal on or after that date. The remainder of this section is effective upon ratification.

PART 23A. HEALTH CARE REFORM

Requested by: Senators Martin of Guilford, Forrester, Perdue, Rand, Representatives Gardner, Hayes, Nye

INSURANCE REFORM

Sec. 23A.1. (a) Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-173. Guaranteed renewability; provisions.

(a) As used in this section:

(1) 'Health benefit plan' means a plan covering a group of persons and in the form of: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by other federal law or regulation. 'Health benefit plan' does not mean any of the following kinds of insurance:

- a. Accident
- b. Credit
- c. Disability income
- d. Long-term or nursing home care
- e. Medicare supplement
- f. Specified disease
- g. Dental or vision
- h. Coverage issued as a supplement to liability insurance
- i. Workers' compensation
- j. Medical payments under automobile or homeowners
- k. Hospital income or indemnity
- l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

(2) 'Insurer' includes an entity subject to Articles 49, 65, or 67 of this Chapter.

(b) An insurer shall not modify any health benefit plan with respect to any insured through riders, endorsements, or otherwise, in order to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(c) Renewal of the health benefit plans shall be guaranteed by the insurer except:

(1) For nonpayment of the required premium by the policyholder or contract holder.

(2) For fraud or material misrepresentation by the policyholder or contract holder.

(3) When the insurer ceases providing health benefit plans, provided notice of the decision to cease providing health benefit plans is given to the Commissioner and to the policyholder or contract holder six months before the renewal of the health benefit plan would have taken effect."

(b) G.S. 58-50-130(a)(2) reads as rewritten:

"(2) In determining whether a preexisting-conditions provision applies to an eligible employee or to a dependent, all health benefit plans shall credit the time the person was covered under a previous group health benefit plan if the previous coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the plan. As used in this subdivision with respect to previous coverage, 'health benefit plan' is not limited to plans subject to this act under G.S. 58-50-115."

(c) G.S. 58-51-80(b)(3) reads as rewritten:

"(3) Policies may contain a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than 12 months after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical advice or treatment was received or recommended or which could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage.' Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any ~~prior group~~ previous plan. Credit must be given for that portion of the waiting period which was met under the ~~prior~~ previous plan. As used in this subdivision, a 'previous plan' includes any health benefit plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any government plan or program providing health benefits or health care. For employer groups of 50 or more ~~persons:~~ persons and for groups under subdivision (1a) of this subsection and under G.S. 58-51-81: In determining whether a preexisting condition provision applies to an eligible ~~employee~~ employee, association member, student, or to a dependent, all health benefit plans shall credit the time the person was covered under a previous ~~group health benefit~~ plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the new coverage."

(d) G.S. 58-51-80(h) reads as rewritten:

"(h) Nothing contained in this section ~~shall be deemed applicable~~ applies to any contract issued by any corporation defined in ~~Articles~~ Article 65 and 66 of this Chapter. Subdivision (b)(3) of this section applies to MEWAs, as defined in G.S. 58-49-30(a)."

(e) G.S. 58-65-60(e)(2) reads as rewritten:

"(2) Employer master group contracts may contain a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than 12 months after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical advice or treatment was received or recommended or which could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage.' Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any ~~prior group~~ previous plan. Credit must be given for that portion of the waiting period which was met under the ~~prior~~ previous plan. As used in this subdivision, a 'previous plan' includes any health benefit plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any government plan or program providing health benefits or health care, except that nothing in this section shall apply to a guaranteed issue product designed for uninsurables. For employer groups of 50 or more persons: In determining whether a preexisting condition provision applies to an eligible employee or to a dependent, all health benefit plans shall credit the time the person was covered under a previous ~~group health benefit~~ plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the new coverage."

(f) G.S. 58-67-85(c) reads as rewritten:

"(c) Employer master group contracts may contain a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than 12 months after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical advice or treatment was received or recommended or which could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage.' Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any ~~prior group~~ previous plan. Credit must be given for that portion of the waiting period which was met under the ~~prior~~ previous plan. As used in this subsection, a 'previous plan' includes any health benefit plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any government plan or program providing health benefits or health care. ~~For employer groups of 50 or more persons:~~—In determining whether a preexisting condition provision applies to an eligible employee or to a dependent, all health benefit plans shall credit the time the person was covered under a previous ~~group health benefit~~ plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the new coverage."

(g) G.S. 58-51-15(a)(2)b. reads as rewritten:

"b. ~~No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy. This policy contains a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than one year after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical advice or treatment was received or recommended or that could be medically documented within the one-year period immediately preceding the effective date of the person's coverage.'~~ Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any previous plan. Credit must be given for that portion of the waiting period that was met under the previous plan. As used in this policy, the term 'previous plan' includes any health benefit plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any government plan or program providing health benefits or health care. In determining whether a preexisting condition provision applies to an insured person, all health benefit plans must credit the time the person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the new coverage."

Requested by: Senators Martin of Guilford, Forrester, Perdue, Rand, Plyler, Odom, Representatives Gardner, Hayes, Nye, Holmes, Creech, Esposito

NORTH CAROLINA HEALTH CARE REFORM COMMISSION

Sec. 23A.3. (a) G.S. 143-611 reads as rewritten:

"§ 143-611. Commission established; members; terms of office; quorum; compensation.

(a) Establishment. – There is established the North Carolina Health Care Planning Reform Commission with the powers and duties specified in this Article. The Commission shall be located within the Office of the Secretary, Department of Human Resources, for organizational, budgetary, and administrative purposes.

(b) Membership and Terms. – The Commission shall consist of ~~16~~14 members, as follows:

- (1) ~~The Governor;~~
- (2) ~~The Lieutenant Governor;~~
- (3) ~~The Speaker of the House of Representatives;~~

- (4) ~~The President Pro Tempore of the Senate;~~
- (5)(1a) ~~Five~~ Six members appointed by the Speaker of the House of Representatives, at least two of whom are members of the House of Representatives at the time of appointment; appointed by the Speaker of the House of Representatives;
- (6)(2a) ~~Five~~ Six members appointed by the President Pro Tempore of the Senate, at least two of whom are members of the Senate at the time of the appointment; and appointed by the President Pro Tempore of the Senate; and
- (7)(3a) The following nonvoting members, ex officio:
 - a. The Secretary of the Department of Environment, Health, and Natural ~~Resources;~~ Resources, or a designee thereof, and
 - b. The Secretary of the Department of Human ~~Resources.~~ Resources, or a designee thereof.

Members shall serve two-year terms. Vacancies in membership shall be filled by the appointing authority in accordance with this section. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one of the Commission members to serve as cochair.

(c) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(d) Meetings. – ~~The Governor shall convene the Commission.~~ Commission shall be convened by the cochairs. Meetings shall be held as often as necessary, but not less than six times a year.

(e) Quorum. – A majority of the voting members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission."

(b) New terms of members of the North Carolina Health Care Reform Commission commence August 1, 1995 and expire on July 31, 1997.

(c) Wherever in the General Statutes the title North Carolina Health Planning Commission appears, the Revisor of Statutes shall substitute for it the title North Carolina Health Care Reform Commission.

(d) G.S. 143-612 is repealed.

(e) Article 65 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-612A. Powers and duties of the Commission.

(a) Administrative Powers. – The Commission shall have the following administrative powers:

- (1) To appoint a director, who shall be exempt from the State Personnel Act, and to employ other staff as it deems necessary, subject to the State Personnel Act, and to fix their compensation;
- (2) To enter into contracts to carry out the purposes of this Article;

- (3) To conduct investigations and inquiries and compel the submission of information and records the Commission deems necessary; and
- (4) To accept grants, contributions, devises, bequests, and gifts for the purpose of providing financial support to the Commission. Such funds shall be retained by the Commission.

(b) Monitoring. – The Commission shall monitor health care reform efforts in the State and shall report to the Governor and the General Assembly on the following:

- (1) Cost-containment measures;
- (2) Accessibility to health care in rural and medically underserved areas;
- (3) Availability of affordable health insurance for small businesses, including the Health Care Purchasing Alliances, to determine if these are meeting the health insurance needs of small business employers and their employees;
- (4) Efforts to increase the purchasing power of government health programs; and
- (5) The number of persons who lack access to primary care providers.

(c) Study. – The Commission shall study the following issues and may recommend to the General Assembly actions to address these issues:

- (1) The steps necessary to include the populations served by Medicaid, including a statement of any necessary federal waivers;
- (2) The steps necessary to obtain an exemption from the federal Employee Retirement and Income Security Act (ERISA);
- (3) Examine the roles of other existing publicly financed systems of health coverage such as Medicare, federal employee health benefits, health benefits for armed services members, the Veterans Administration, the CHAMPUS program (10 U.S.C. § 1071 et seq.), and any other health benefits currently mandated by State or federal law or funded by State agencies;
- (4) The means by which the delivery of health care will ensure that the needs of special populations of eligible residents such as low-income persons, people living in rural and underserved areas, and people with disabilities and chronic or unusual medical needs will be met;
- (5) The role of the existing county health care system in health care reform efforts;
- (6) The appropriate means of financing medical education and medical research;
- (7) The means by which North Carolina's need for long-term care services can best be met, including an examination of the appropriateness and availability of home- and community-based services;
- (8) The impact on health care cost and efficiency of rule changes made by State and local government agencies pertaining to health care services. The study shall include the impact of the frequency of such rule changes;

- (9) Privatization of administrative, clinical, and mental health functions performed by governmental agencies and entities, and the impact of regulation on the delivery of private health coverage and health services;
 - (10) The impact of federal budget decisions on underserved and underinsured populations;
 - (11) The need for additional primary care practitioners;
 - (12) The need for additional benefits and population-based services to be offered in the community, based on the established priorities for improving health status in the community;
 - (13) Incentives for increasing employer-based coverage;
 - (14) Trends in the numbers of uninsured and underinsured persons and the barriers to access by these persons;
 - (15) Ways to maintain emergency medical services when hospital beds are reconfigured; and
 - (16) Study effectiveness of different types of preventive health services.
- (d) Other Duties. – The Commission shall do the following and shall report to the Governor and the General Assembly on the progress of these activities:
- (1) Develop methods to ensure adequate primary care for all eligible residents and appropriate compensation for primary care services to achieve that end;
 - (2) Review and identify initiatives and incentives to enhance the practice of primary health care in rural areas of the State;
 - (3) Identify or develop incentives to encourage diversification in health care facilities in rural and other areas of the State; and
 - (4) Assess the impact of the locum tenens program; and
 - (5) Develop alternative ways of expanding coverage to uninsured persons.
- (e) Notwithstanding any other provision in this Article or Article 68A of Chapter 58 of the General Statutes, the Commission may develop its own health care proposals or plans or make any other recommendations to the General Assembly.
- (f) The Commission shall report to the General Assembly on or before April 1, 1996, on its duties and responsibilities under this section."

Requested by: Senators Martin of Guilford, Forrester, Perdue, Rand, Plyler,
Representatives Gardner, Hayes, Nye

HEALTH PROFESSIONAL LICENSING BOARD REPORTING

Sec. 23A.4. Effective October 1, 1995, Chapter 93B of the General Statutes is amended by adding the following new section to read:

"§ 93B-12. Information from licensing boards having authority over health care providers.

(a) Every occupational licensing board having authority to license physicians, physician assistants, nurse practitioners, and nurse midwives in this State shall modify procedures for license renewal to include the collection of information specified in this section for each board's regular renewal cycle. The purpose of this requirement is to

assist the State in tracking the availability of health care providers to determine which areas in the State suffer from inequitable access to specific types of health services and to anticipate future health care shortages which might adversely affect the citizens of this State. Occupational licensing boards, in consultation with the North Carolina Health Care Reform Commission, shall collect, report, and update the following information:

- (1) Area of health care specialty practice;
- (2) Address of all locations where the licensee practices; and
- (3) Other information the occupational licensing board in consultation with the North Carolina Health Care Reform Commission deems relevant to assisting the State in achieving the purpose set out in this section, including social security numbers for research purposes only in matching other data sources.

(b) Every occupational licensing board required to collect information pursuant to subsection (a) of this section shall report and update the information on an annual basis to the North Carolina Health Care Reform Commission. The Commission shall provide this information to programs preparing primary care physicians, physicians assistants, and nurse practitioners upon request by the program and by the Board of Governors of The University of North Carolina. Information provided by the occupational licensing board pursuant to this subsection may be provided in such form as to omit the identity of the health care licensee."

Requested by: Senators Martin of Guilford, Forrester, Perdue, Rand, Plyler, Odom, Representatives Holmes, Creech, Esposito, Gardner, Hayes, Nye

PRIMARY CARE PROVIDERS

Sec. 23A.5. G.S. 143-613 reads as rewritten:

"§ 143-613. Medical education; primary care ~~physicians.~~ physicians and other providers.

(a) In recognition of North Carolina's need for primary care physicians, Bowman Gray School of Medicine and Duke University School of Medicine shall each prepare a plan with the goal of encouraging North Carolina residents to enter the primary care disciplines of general internal medicine, general pediatrics, family medicine, obstetrics/gynecology, and combined medicine/pediatrics and to strive to have at least fifty percent (50%) of North Carolina residents graduating from each school entering these disciplines. These schools of medicine shall present their plans to the Board of Governors of The University of North Carolina by April 15, ~~1994-1996,~~ and shall update and present their plans every two years thereafter. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by May 15, ~~1994, 1996,~~ and every two years thereafter on the status of these efforts to strengthen primary health care in North Carolina.

(b) The Board of Governors of The University of North Carolina shall set goals for the Schools of Medicine at the University of North Carolina at Chapel Hill and the School of Medicine at East Carolina University for increasing the percentage of graduates who enter residencies and careers in primary care. A minimum goal should

be at least sixty percent (60%) of graduates entering primary care disciplines. Each school shall submit a plan with strategies to reach these goals of increasing the number of graduates entering primary care disciplines to the Board by April 15, 1994, 1996, and shall update and present the plans every two years thereafter. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by May 15, 1994, 1996, and every two years thereafter on the status of these efforts to strengthen primary health care in North Carolina.

Primary care shall include the disciplines of family medicine, general pediatric medicine, general internal medicine, internal medicine/pediatrics, and obstetrics/gynecology.

(b1) The Board of Governors of The University of North Carolina shall set goals for State-operated health professional schools that offer training programs for licensure or certification of physician assistants, nurse practitioners, and nurse midwives for increasing the percentage of the graduates of those programs who enter clinical programs and careers in primary care. Each State-operated health professional school shall submit a plan with strategies for increasing the percentage to the Board by April 15, 1996, and shall update and present the plan every two years thereafter. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by May 15, 1996, and every two years thereafter on the status of these efforts to strengthen primary health care in North Carolina.

(c) The Board of Governors of The University of North Carolina shall further initiate whatever changes are necessary on admissions, advising, curriculum, and other policies for State-operated medical schools and State-operated health professional schools to ensure that larger proportions of ~~medical~~ students seek residencies and clinical training in primary care disciplines. The Board shall work with the Area Health Education Centers and other entities, adopting whatever policies it considers necessary to ensure that residency and clinical training programs have sufficient ~~medical~~ residency and clinical positions for ~~medical school~~ graduates in these primary care specialties. As used in this subsection, health professional schools are those schools or institutions that offer training for licensure or certification of physician assistants, nurse practitioners, and nurse midwives.

(d) The progress of the private and ~~public~~ State-operated medical schools and State-operated health professional schools towards increasing the number and proportion of graduates entering primary care shall be monitored annually by the Board of Governors of The University of North Carolina. Monitoring data shall include (i) the entry of State-supported ~~medical~~ graduates into primary care ~~residencies,~~ residencies and clinical training programs, and (ii) the specialty practices by a physician and each midlevel provider who were State-supported graduates as of a date five years after graduation. The Board of Governors shall certify data on graduates, their ~~residencies,~~ residencies and clinical training programs, and subsequent careers by October 1 of each calendar year, beginning in October of 1995, to the Fiscal Research Division of the Legislative Services Office and to the Joint Legislative Education Oversight Committee.

(e) The information provided in subsection (d) of this section shall be made available to the Appropriations Committees of the General Assembly for their use in future funding decisions on medical and health professional education."

Requested by: Senators Martin of Guilford, Forrester, Perdue, Rand, Representatives Gardner, Hayes, Nye, Holmes, Creech, Esposito

PUBLIC HEALTH STUDY COMMISSION

Sec. 23A.6. (a) G.S. 120-196 reads as rewritten:

"§ 120-196. Commission duties.

The Commission shall study the availability and accessibility of public health services to all citizens throughout the State. In conducting the study the Commission shall:

- (1) Determine whether the public health services currently available in each county or district health department conform to the mission and essential services established under G.S. 130A-1.1;
- (2) Study the workforce needs of each county or district health department, including salary levels, professional credentials, and continuing education requirements, and determine the impact that shortages of public health professional personnel have on the delivery of public health services in county and district health departments;
- (3) Review the status and needs of local health departments relative to facilities, and the need for the development of minimum standards governing the provision and maintenance of these facilities;
- (4) Propose a long-range plan for funding the public health system, which plan shall include a review and evaluation of the current structure and financing of public health in North Carolina and any other recommendations the Commission deems appropriate based on its study activities; ~~and~~
- (5) Conduct any other studies or evaluations the Commission considers necessary to effectuate its ~~purpose.~~ purpose; and
- (6) Study the capacity of small counties to meet the core public health functions mandated by current State and federal law. The Commission shall consider whether the current county and district health departments should be organized into a network of larger multidistrict community administrative units. In making its recommendations on this study, the Commission shall consider whether the State should establish minimum populations for local health departments, and if so, shall recommend the number of and configuration for these multicounty administrative units and shall recommend a series of incentives to ease county transition into these new arrangements."

(b) Section 8.1 of Chapter 771 of the 1993 Session Laws reads as rewritten:

"Sec. 8.1. This act is effective upon ratification. ~~Part II of this act is repealed on June 30, 1995."~~

PART 24. DEPARTMENT OF AGRICULTURE

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

CATTLE AND LIVESTOCK EXPOSITION CENTER

Sec. 24. (a) Any unencumbered funds that were appropriated to the Department of Agriculture in Chapter 561 of the 1993 Session Laws for the 1993-94 fiscal year as planning funds for a livestock facility shall be placed in a reserve in the Department of Agriculture until further allocated by the 1995 General Assembly, Regular Session 1996.

(b) Section 40 of Chapter 769 of the 1993 Session Laws reads as rewritten:

"Sec. 40. Of the funds appropriated in this act Any unencumbered funds that were appropriated to the Department of Agriculture for the 1994-95 fiscal year, the sum of seven hundred thirty seven thousand three hundred fifty dollars (\$737,350) shall be used year for planning the construction of the Cattle and Livestock Exposition Center in Alamance County. shall be placed in a reserve in the Department of Agriculture until further allocated by the 1995 General Assembly, Regular Session 1996. The Center will house livestock shows and exhibits, educational programs, and a laboratory for embryo transfer research, semen evaluation, and livestock blood work."

Requested by: Senators Martin of Pitt, Kerr, Jordan, Representatives Mitchell, Weatherly,

DAIRY FACILITY AT CHERRY FARM UNIT

Sec. 24.1. The sum of two hundred fifty thousand dollars (\$250,000) shall be transferred from the Department of Agriculture's timber sales capital improvement account, established pursuant to G.S. 146-30, to the Department of Agriculture for the 1995-96 fiscal year and shall be used to construct and equip a new dairy facility to be located at the Cherry Farm Unit.

PART 25. DEPARTMENT OF COMMERCE

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

INDUSTRIAL COMMISSION/FRAUD CHECK

Sec. 25. (a) G. S. 97-88.2(b) reads as rewritten:

"(b) The Commission shall refer all cases of suspected fraud and all violations related to workers' compensation claims, by or against insurers or self-funded employers, to the Department of Insurance to: shall:

- (1) Perform investigations regarding all cases of suspected fraud and all violations related to workers' compensation claims, by or against insurers or self-funded employers, and refer possible criminal violations to the appropriate prosecutorial authorities;
- (2) Conduct administrative violation proceedings; and

(3) Assess and collect penalties and restitution."

(b) Of the funds appropriated in this act to the Department of Commerce, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 1996-97 fiscal year shall be used for the North Carolina Industrial Commission to implement subsection (a) of this section.

(c) This section is effective upon ratification.

Requested by: Senators Martin of Pitt, Kerr, Jordan, Representatives Mitchell, Weatherly

CENTER FOR COMMUNITY SELF-HELP FUNDS

Sec. 25.1. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of one million dollars (\$1,000,000) for the 1995-96 fiscal year shall be allocated to the Center for Community Self-Help to further a statewide program of lending for home ownership throughout North Carolina. These funds will be leveraged on a ten-to-one basis, generating at least ten dollars (\$10.00) of nontraditional home loans for every one dollar (\$1.00) of State funds. Payments of principal shall be available for further loans or loan guarantees.

(b) The Center for Community Self-Help shall submit, within 180 days after the close of its fiscal year, audited financial statements to the State Auditor. All records pertaining to the use of State funds shall be made available to the State Auditor upon request. The Center for Community Self-Help shall make quarterly reports on the use of State funds to the State Auditor, in form and format prescribed by the State Auditor or his designee. The Center for Community Self-Help shall make a written report by May 1 of each year for the next three years to the General Assembly on the use of the funds allocated under this section.

(c) The Center for Community Self-Help shall report to the Joint Legislative Commission on Governmental Operations, the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Department of Commerce on a quarterly basis for the next three years.

(d) The Office of the State Auditor may conduct an annual end-of-year audit of the revolving fund for economic development lending created by this appropriation for each year of the life of the revolving fund.

(e) If the Center for Community Self-Help dissolves, the corporation shall transfer the remaining assets of the revolving fund to the State and shall refrain from disposing of the revolving fund assets without approval of the State Treasurer.

(f) The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help. The request shall include a commitment of the leveraged funds by the Center for Community Self-Help or its affiliates.

Requested by: Senators Perdue, Martin of Pitt, Odom, Jordan, Kerr, Representatives Mitchell, Weatherly

WANCHESE SEAFOOD INDUSTRIAL PARK FUNDS

Sec. 25.1A. Funds appropriated in Chapter 324 of the 1995 Session Laws to the Department of Commerce for the Wanchese Seafood Industrial Park may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

BUDGET FLEXIBILITY/INTERNATIONAL TRADE DIVISION

Sec. 25.2. Of the funds appropriated in this act to the Department of Commerce, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year shall be placed in a reserve to be used to cover devaluation of the dollar to a foreign currency only if the devaluation is five percent (5%) or greater and shall be used to cover increased expenses due to foreign country inflation only if the inflation is greater than one percent (1%) per month. Funds allocated pursuant to this section shall be limited to a maximum of forty thousand dollars (\$40,000) per office for the Department's International Trade Division offices in Hong Kong, Tokyo, Dusseldorf, and Mexico City.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

INDUSTRIAL RECRUITMENT COMPETITIVE FUND REPORTING REQUIREMENT

Sec. 25.2A. The Department of Commerce shall report on or before October 1, 1995 and quarterly thereafter to the Joint Legislative Commission on Governmental Operations on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

NCACTS REPORTING REQUIREMENT

Sec. 25.3. Section 11.2 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 11.2. The North Carolina Alliance for Competitive Technologies (NCACTS) created by Executive Order No. 63 on September 26, 1994, is transferred from the Department of Administration to the Department of Commerce. All positions, property, unexpended balances of appropriations, allocations and other refunds, including the functions of budgeting and purchasing, for NCACTS are transferred from the Department of Administration to the Department of Commerce.

Beginning October 1, 1995, and quarterly thereafter, NCACTS shall report quarterly on its ~~operations~~ operations, use of funds, and performance to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division."

Requested by: Senators Martin of Pitt, Jordan, Ballance, Edwards, Lucas, Gulley, Rand, Kerr, Cooper, Representatives Mitchell, Weatherly, H. Hunter

FUNDS FOR ECONOMIC DEVELOPMENT

Sec. 25.4. (a) Definition. – For purposes of this section, the term 'community development corporation' means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the target community.

(b) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three million eight hundred thousand dollars (\$3,800,000) for the 1995-96 fiscal year shall be placed in an Economic and Community Development Program Reserve. Funds shall be allocated from the Reserve by the Rural Economic Development Center, Inc. as follows:

- (1) \$1,350,000 for community development grants to support community 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 shall establish performance-based criteria for determining which community development corporations will receive a grant and the grant amount. Funding will also be allocated to the North Carolina Association of Community Development Corporations, Inc. The Rural Economic Development Center, Inc., shall allocate these grant funds from the Economic and Community Development Program Reserve as follows:
 - a. \$900,000 for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities,
 - b. \$250,000 for direct grants to local community development organizations that have not previously received State funds,
 - c. \$150,000 to the North Carolina Association of Community Development Corporations, Inc. to provide training, technical assistance, resource development, project assistance, and support for local community development corporations statewide, and

- d. \$50,000 to the Rural Economic Development Center, Inc. to be used to cover expenses in administering this section;
- (2) \$275,000 to the Minority Credit Union Support Center for technical assistance to community-based minority credit unions;
- (3) \$250,000 to the Microenterprise Loan Program to support the loan fund and operations of the Program;
- (4) \$100,000 allocated as follows:
 - a. \$25,000 to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
 - b. \$25,000 to Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
 - c. \$25,000 to Pitt-Greenville Opportunities Industrialization Center, Inc. for its ongoing job training programs; and
 - d. \$25,000 to the Opportunities Industrialization Center of Lenoir, Greene, and Jones Counties.

Funds allocated pursuant to this subdivision shall be in addition to funds allocated pursuant to Section 25.12 of Chapter 324 of the 1995 Session Laws. Reporting requirements of that section shall apply to funds allocated under this subdivision;

- (5) \$400,000 shall be used for a program to provide supplemental funding for matching requirements for economic development in economically depressed areas. The Center shall use the funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for necessary economic development projects and activities in economically depressed areas. The grant recipients shall be selected on the basis of need;
- (6) \$275,000 to the Land Loss Prevention Project, Inc., to provide free legal representation to low-income, financially distressed small farmers. The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers who have income and assets that would make them financially ineligible for legal services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The Land Loss Prevention Project, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;
- (7) \$245,000 to the North Carolina Coalition of Farm and Rural Families, Inc., for its Small Farm Economic Development Project. These funds shall be used to foster economic development within the State's rural farm communities by offering financial, marketing, and technical assistance to small and limited resource farmers. The North Carolina Coalition of Farm and Rural Families, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1

and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;

- (8) \$780,000 to the North Carolina Institute for Minority Economic Development, Inc., to foster minority economic development within the State through policy analysis, information and technical assistance, resource expansion and support of community-based demonstration initiatives. The North Carolina Institute for Minority Economic Development, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;
- (9) \$100,000 to the Lake Gaston Economic Development Corporation for planning and preliminary development of a conference center and related facilities for the Lake Gaston area; and
- (10) \$25,000 to the Roanoke-Chowan Community College for its sheltered workshop program.

(c) The Rural Economic Development Center, Inc. shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the uses of funds allocated pursuant to subdivisions (1), (2), (3), (4), (5), (9), and (10) of subsection (b) of this section.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

CLEVELAND COUNTY PARTICIPATION IN ECONOMIC DEVELOPMENT COMMISSION

Sec. 25.5. (a) G.S. 158-8.1(a) reads as rewritten:

"(a) There is created the Western North Carolina Regional Economic Development Commission to serve Buncombe, Cherokee, Clay, ~~Cleveland~~, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year."

(b) The Department of Commerce shall allocate Cleveland County's pro rata share of economic development funds appropriated to the Department pursuant to Section 25.4 of Chapter 324 of the 1995 Session Laws to the Carolinas Partnership, Inc., Economic Development Commission, of which Cleveland County has been and is currently a dues-paying member.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

COMMON FOLLOW-UP SYSTEM FOR STATE JOB TRAINING AND EDUCATION PROGRAMS

Sec. 25.6. (a) Chapter 96 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 4. "Job Training, Education, and Placement Information Management.

"§ 96-30. Findings and purpose.

The General Assembly finds it in the best interests of this State that the establishment, maintenance, and funding of State job training, education, and placement programs be based on current, comprehensive information on the effectiveness of these programs in securing employment for North Carolina citizens and providing a well-trained workforce for business and industry in this State. To this end, it is the purpose of this Article to require the establishment of an information system that maintains up-to-date job-related information on current and former participants in State job training and education programs.

"§ 96-31. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

- (1) 'CFS' means the common follow-up information management system developed by the Employment Security Commission of North Carolina as authorized under this Article.
- (2) 'ESC' means the Employment Security Commission of North Carolina.
- (3) 'OSBM' means the Office of State Budget and Management.
- (4) 'State job training, education, and placement program' or 'State-funded program' means a program operated by a State or local government agency or entity and supported in whole or in part by State or federal funds, that provides job training and education or job placement services to program participants. The term does not include on-the-job training provided to current employees of the agency or entity for the purposes of professional development.

"§ 96-32. Common follow-up information management system created.

(a) The Employment Security Commission of North Carolina shall develop, implement, and maintain a common follow-up information management system for tracking the employment status of current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, the ESC shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) The ESC in consultation with OSBM shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the Office of State Budget and Management shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated. The ESC shall provide to OSBM data collected under the CFS in a manner and with the frequency necessary for the Office of State Budget and Management to conduct the evaluation required under this subsection. The ESC shall consult with OSBM to determine the most efficient and effective method for providing to OSBM data collected under the CFS. The OSBM shall maintain the same levels of confidentiality with respect to CFS data received from the ESC as is required of the ESC under this Article. OSBM shall coordinate with the Office of State Planning to determine what data will be collected to support the State planning and budgetary process.

"§ 96-33. State agencies required to provide information and data.

(a) Every State agency and local government agency or entity that receives State or federal funds for the direct or indirect support of State job training, education, and placement programs shall provide to the Employment Security Commission of North Carolina all data and information available to or within the agency or entity's possession requested by the ESC for input into the common follow-up information management system authorized under this Article.

(b) Each agency or entity required to report information and data to the ESC under this Article shall maintain true and accurate records of the information and data requested by the ESC. The records shall be open to ESC inspection and copying at reasonable times and as often as necessary. Each agency or entity shall further provide, upon request by ESC, sworn or unsworn reports with respect to persons employed or trained by the agency or entity, as deemed necessary by the ESC to carry out the purposes of this Article. Information obtained by the ESC from the agency or entity shall be held by ESC as confidential and shall not be published or open to public inspection other than in a manner that protects the identity of individual persons and employers.

"§ 96-34. Prohibitions on use of information collected.

Data and information reported, collected, maintained, disseminated, and analyzed may not be used by any State or local government agency or entity for purposes of making personal contacts with current or former students or their employers or trainers.

"§ 96-35. Reports on common follow-up system activities.

(a) The Employment Security Commission of North Carolina shall present annually by May 1 to the General Assembly and to the Governor a report of CFS activities for the preceding calendar year. The report shall include information on and evaluation of job training, education, and placement programs for which data was reported by State and local agencies subject to this Article. Evaluation of the programs shall be on the basis of fiscal year data.

(b) The Office of State Budget and Management shall report to to the Governor and to the General Assembly upon the convening of each biennial session, its evaluation

of and recommendations regarding job training, education, and placement programs for which data was provided to the CFS."

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

PETROLEUM OVERCHARGE FUNDS ALLOCATION

Sec. 25.7. (a) The funds and interest thereon received from the case of the United States v. Exxon are deposited in the Special Reserve for Oil Overcharge Funds. There is appropriated from the Special Reserve to the Department of Commerce the sum of one million six hundred fifty thousand dollars (\$1,650,000) for the 1995-96 fiscal year and the sum of one million six hundred fifty thousand dollars (\$1,650,000) for the 1996-97 fiscal year to be used for projects under the State Energy Conservation Plan.

(b) There is appropriated from funds and interest thereon received from the United States Department of Energy's Stripper Well Litigation (MDL378) that remain in the Special Reserve for Oil Overcharge Funds to the Department of Commerce the sum of two million five hundred thousand dollars (\$2,500,000) for the 1995-96 fiscal year and two million two hundred fifty thousand dollars (\$2,250,000) for the 1996-97 fiscal year to be allocated for the Low Income Weatherization Program.

(c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocations made pursuant to subsections (a) and (b) 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 Oil Overcharge Funds.

(d) The funds and interest thereon received from the Diamond Shamrock Settlement that remain in a reserve in the Office of State Budget and Management for the Department of Commerce to administer the petroleum overcharge funds pursuant to Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to the Department of Commerce on an as-needed basis.

(e) The Department of Commerce shall submit comprehensive annual reports to the General Assembly by May 15, 1996, and January 31, 1997, which detail the use of all Petroleum Overcharge Funds. Any State department or agency that has received Petroleum Overcharge Funds shall provide all information requested by the Department of Commerce for the purpose of preparing these reports.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

PETROLEUM OVERCHARGE ATTORNEY FEES

Sec. 25.8. (a) Unless prohibited by federal law, rule, or regulation or preexisting settlement agreement, no later than October 1, 1989, the North Carolina Attorney General shall direct the withdrawal of all funds received in the cases of United States v. Exxon and Stripper Well that are held in accounts or reserves located out-of-state for payment of attorney fees and reasonable expenses incurred in connection with oil overcharge litigation authorized by the Attorney General. The Attorney General shall deposit these funds, and all funds to be received from Petroleum Overcharge

Funds in the future for attorney fees and reasonable expenses, into the Special Reserve for Oil Overcharge Funds.

(b) All attorney fees and reasonable expenses incurred in connection with oil overcharge litigation shall be paid by the State Treasurer from Petroleum Overcharge Funds that have been received by this State and deposited into the Special Reserve for Oil Overcharge Funds.

(c) Notwithstanding any other provision of law, the Attorney General may authorize the payment of attorney fees and reasonable expenses from the Special Reserve for Oil Overcharge Funds without further action of the General Assembly, and funds are hereby appropriated from the Special Reserve for Oil Overcharge Funds for the 1995-96 fiscal year and for the 1996-97 fiscal year for that purpose.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

WORKER TRAINING TRUST FUND APPROPRIATIONS

Sec. 25.9. (a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million eight hundred thirty-nine thousand nine hundred sixty-four dollars (\$5,839,964) for the 1995-96 fiscal year and the sum of five million eight hundred thirty-nine thousand nine hundred sixty-four dollars (\$5,839,964) for the 1996-97 fiscal year for the operation of local offices.

(b) Notwithstanding G.S. 96-5(c), there is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina, the sum of two million dollars (\$2,000,000) for the 1995-96 fiscal year and the sum of two million dollars (\$2,000,000) for the 1996-97 fiscal year for administration of the Veterans Employment Program, Employment Services Program, and Unemployment Insurance Program.

(c) Supplemental federal funds or other additional funds received by the Employment Security Commission for similar purposes shall be expended prior to the expenditure of funds appropriated by this section.

(d) 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 1995-96 and the 1996-97 fiscal years for the following purposes:

- (1) \$2,400,000 for the 1995-96 fiscal year and \$2,400,000 for the 1996-97 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;
- (2) \$1,000,000 for the 1995-96 fiscal year and \$1,000,000 for the 1996-97 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Pre-Apprenticeship Division;
- (3) \$1,528,067 for the 1995-96 fiscal year and \$1,528,067 for the 1996-97 fiscal year to the Department of Human Resources to assist welfare recipients in gaining employment through the federally funded Job

- Opportunities and Basic Skills Program in such a way as to gain the maximum match of federal funds for the State dollars appropriated;
- (4) \$1,746,000 for the 1995-96 fiscal year and \$1,746,000 for the 1996-97 fiscal year to the Department of Community Colleges to continue the Focused Industrial Training Program;
 - (5) \$225,000 for the 1995-96 fiscal year and \$225,000 for the 1996-97 fiscal year to the Employment Security Commission for the Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs; and
 - (6) \$300,000 for the 1995-96 fiscal year and \$300,000 for the 1996-97 fiscal year to the Department of Community Colleges for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises.

Requested by: Senators Cochrane, Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

ESC VOTER REGISTRATION FUNDS

Sec. 25.10. (a) There is appropriated from the Worker Training Trust Fund to the Department of Commerce, Employment Security Commission, the sum of three hundred thousand dollars (\$300,000) for the 1995-96 fiscal year to carry out the provisions of the National Voter Registration Act (P.L. 103-31).

(b) The Employment Security Commission shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division no later than 30 days before reconvening in 1996 of the 1995 Regular Session as to how the funds appropriated by subsection (a) of this section were expended, specifically:

- (1) Its methodology for charging costs against the appropriation;
- (2) Detailing of the costs by categories;
- (3) How much of the costs supplanted federal funds and how much were incremental costs; and
- (4) Whether employer contribution rates can be reduced to the extent that federal funds were supplanted, and what State or federal legislation would be required to make such rate reductions.

(c) Section 73 of Chapter 762 of the 1993 Session Laws reads as rewritten:

"Sec. 73. Sections 1 through 68 of this act become effective January 1, 1995, and apply to all primaries and elections occurring on or after that date. The remainder of this act is effective upon ratification and shall apply to all primaries and elections occurring on or after the date of ratification. Prosecutions for, or sentences based on, offenses occurring before the effective date of any section of this act are not abated or affected by this act and the statutes that would be applicable to those prosecutions or sentences but for the provisions of this act remain applicable to those prosecutions or

sentences. G.S. 163-82.20(a)(3) and G.S. 163-82.20(b1) as enacted in Section 2 of this act expire ~~January~~ July 1, 1996."

(d) Section 16.1(b) of Chapter 769 of the 1993 Session Laws is extended through December 31, 1995.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

ALLOCATION OF MCNC REDUCTIONS IN FUNDS

Sec. 25.11. Reductions in this act to funds appropriated in Chapter 324 of the 1995 Session Laws to MCNC shall be allocated by MCNC among the program categories listed in Section 25.9(c) of Chapter 324 of the 1995 Session Laws. MCNC shall report on the allocation of the reductions to the Joint Legislative Commission on Governmental Operations within 30 days of the allocation.

Requested by: Senators Hobbs, Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

FUNDS FOR ESC NOTIFICATION OF EARNED INCOME CREDIT

Sec. 25.11A. The Department of Commerce, Employment Security Commission, may spend up to twenty-five thousand dollars (\$25,000) in each fiscal year from the Special Employment Security Administration Fund to reprint and mail notices regarding the federal Earned Income Credit to unemployment insurance recipients.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

NORTH CAROLINA TECHNOLOGICAL DEVELOPMENT AUTHORITY/REPORTING

Sec. 25.12. The North Carolina Technological Development Authority, Inc. shall report on all of its programs to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on March 1 of each fiscal year, and more frequently as requested by the Commission. The reports shall include information on the activities and the accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities, and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

INDUSTRIAL COMMISSION MEDIATION/SUNSET OFF

Sec. 25.13. Section 5 of Chapter 399 of the 1993 Session Laws reads as rewritten:

"Sec. 5. Section 3 of this act is effective upon ratification. Sections 1, 2, and 4 of this act become effective October 1, 1993, only if the General Assembly appropriates

funds to implement the purpose of these sections, ~~expire June 30, 1995,~~ and apply to claims pending on or filed after the effective date."

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

WORLD TRADE CENTER FUNDS

Sec. 25.14. Of the funds appropriated in this act to the Department of Commerce, the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year shall be allocated to the North Carolina World Trade Center to continue to provide education programs for small and medium sized businesses. The Department shall report to the Joint Legislative Commission on Governmental Operations on the use of these funds on or before March 1 of each fiscal year, and more frequently as required by the Commission.

PART 26. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Representatives Wilkins, Mitchell, Weatherly, H. Hunter, Senator Martin of Pitt

STATEWIDE AQUATIC WEED ASSESSMENT

Sec. 26. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of thirty thousand dollars (\$30,000) for the 1995-96 fiscal year shall be used by the Department of Environment, Health, and Natural Resources and the North Carolina Aquatic Weed Council to study aquatic weed infestation on a statewide basis.

(b) The Department of Environment, Health, and Natural Resources and the North Carolina Aquatic Weed Council shall report their findings to the Joint Legislative Commission on Governmental Operations by March 15, 1996.

(c) The report shall identify relevant research related to the control and eradication of noxious aquatic plants, include an assessment of the environmental and economic impacts caused by infestation, an assessment of the impact of federal regulations, and a discussion of the issues and options related to control and eradication, enforcement and funding mechanisms. The report shall also include options to reduce or eliminate aquatic weed infestation and a recommended statewide action plan. The report shall consider funding issues and shall address both total budgetary requirements and alternative sources of funding, including fees and other receipts.

Requested by: Representatives Holmes, Mitchell, Weatherly, Yongue, Senators Martin of Pitt, Jordan, Kerr

WATERSHED FUNDS DO NOT REVERT

Sec. 26.1. Subsection (b) of Section 107 of Chapter 561 of the 1993 Session Laws reads as rewritten:

"(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed.

If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1993-94 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund:

- (1) Corps of Engineers project feasibility studies, or
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1993-94, or
- (3) State-local Water Resources Development Projects.

Funds—Funds, except those allocated in subdivisions (a)(14),(15),(16), and (17) of this section, not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1994-95 fiscal year. The funds allocated in subdivisions (a)(14),(15),(16), and (17) of this section shall not revert until June 30, 1997."

Requested by: Representatives Culp, Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

RANDLEMAN DAM RESERVE RELEASE RESTRICTIONS

Sec. 26.2. Subsection (c) of Section 8 of Chapter 777 of the 1993 Session Laws reads as rewritten:

"(c) All funds appropriated in Chapter 769 of the 1993 Session Laws for the construction of Randleman Dam shall revert to the General Fund on ~~October 1, 1996,~~ October 1, 1997, if construction has not begun before that date."

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

AGRICULTURE COST SHARE PROGRAM

Sec. 26.2A. Of the funds appropriated in Chapter 324 of the 1995 Session Laws to the Department of Environment, Health, and Natural Resources for the 1995-96 fiscal year for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum of fifty thousand dollars (\$50,000) shall be used for additional funding for the demonstration project authorized in Section 165 of Chapter 689 of the 1991 Session Laws. These funds shall be used in accordance with the match requirements specified in G.S. 143-215.74(b)(6).

Requested by: Senators Martin of Pitt, Albertson, Jordan, Kerr, Representatives Mitchell, Weatherly

AGRICULTURE COST SHARE FUNDS FOR CAPITAL FOR THE MANAGEMENT OF AGRICULTURE WASTE

Sec. 26.2B. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, Division of Soil and Water Conservation, for the 1995-96 fiscal year for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum of five hundred thousand dollars (\$500,000) shall be used for the 1995-96 fiscal year for capital expenses associated with developing agriculture waste management measures that reduce agricultural nonpoint source discharges, consistent with G.S. 143-214.5(a). These funds shall be used in accordance with the

match and program requirements set forth in G.S. 143-215.74(b). When allocating these funds pursuant to this section, the Soil and Water Conservation Commission shall give priority to small, family agricultural operations. Any funds remaining at the end of the 1995-96 fiscal year shall not revert, but shall remain available for the use authorized by this subsection.

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

TOWN FORK CREEK SOIL CONSERVATION PROJECT

Sec. 26.3. (a) Of the funds appropriated in Section 41(a)(6) of Chapter 769 of the 1993 Session Laws for State-local projects, the sum of seven hundred fifty thousand dollars (\$750,000) shall not revert until June 30, 1997. (These funds are to replace funds originally appropriated for Town Fork Creek that were later reallocated as a grant to the Pilot Mountain Foundation, Inc., for capital improvements.)

(b) The sum of four hundred thousand dollars (\$400,000) appropriated in Section 107(a)(16) of Chapter 561 of the 1993 Session Laws shall not revert until June 30, 1997.

(c) The funds appropriated in Chapter 480 of the 1985 Session Laws and Chapter 754 of the 1989 Session Laws for construction of the Town Fork Reservoir Project in Stokes County, the funds appropriated in Section 107(a)(16) of Chapter 561 of the 1993 Session Laws, and the funds appropriated in Section 41(a)(6) of Chapter 769 of the 1993 Session Laws for State-local projects that do not revert shall be placed in a reserve account. The funds in the reserve account shall not be expended or encumbered pending the completion, without cost to the State, of all of the following:

- (1) A project cost review including an updated engineering cost estimate of the dam structure and associated costs.
- (2) A cost estimate of the requirements imposed for habitat maintenance by the Wildlife Commission.
- (3) A review of the impact of watershed regulations under review by the Department of Environment, Health, and Natural Resources.
- (4) A review of the potential impact of the agreement with Forsyth County on watershed access.
- (5) A determination of the amount of funds required to be paid by Stokes County and the approval of a majority of the voters of Stokes County in a referendum to be held at the general election in November 1996.

Requested by: Representatives Mitchell, Weatherly, H. Hunter, Holmes, Creech, Esposito, Senators Martin of Pitt, Jordan, Kerr, Plyler, Perdue, Odom

HEALTHY START FOUNDATION FUNDS

Sec. 26.4. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year shall be allocated to the North Carolina Healthy Start Foundation to support the programs and activities of the Governor's Commission on Reduction of Infant Mortality. Funds allocated pursuant to this section shall be

expended first to support statewide planning, promotion, and coordination for the First Step Campaign. Funds remaining after allocation for First Step shall be used to support other programs and activities. The Healthy Start Foundation shall report on all of its programs to the Joint Legislative Commission on Governmental Operations on or before March 1, 1996. The report shall include information on the Foundation's activities and accomplishments during the past fiscal year, a list of the groups, organizations, communities, and other recipients of assistance from the Foundation in the last 12 months, itemized expenditures during the past fiscal year with sources of funding, planned activities, and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

MARINE FISHERIES LAW ENFORCEMENT PERSONNEL

Sec. 26.4A. The additional law enforcement positions authorized by this act for the Division of Marine Fisheries, Department of Environment, Health, and Natural Resources shall not be located in Raleigh.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

MARINE FISHERIES

Sec. 26.5. (a) Subsection (a) of Section 3 of Chapter 675 of the 1993 Session Laws, Regular Session 1994, reads as rewritten:

"(a) Except as provided in subsections (b), (c), ~~or (e1), (c1), or (c2)~~, the Department shall not issue any new licenses for a ~~two-year~~ period beginning July 1, 1994, and ending June 30, ~~1996-1997~~, under the following statutes:

- (1) G.S. 113-152. Vessel licenses.
- (2) G.S. 113-153.1. Crab License.
- (3) G.S. 113-154. Shellfish license
- (4) G.S. 113-154.1. Nonvessel endorsements to sell fish."
- (b) G.S. 113-154 is amended by adding a new subsection to read:

"(c1) A shellfish leaseholder under G.S. 113-202, or a water column leaseholder under G.S. 113-202.1 or G.S. 113-202.2 who purchases an individual shellfish license under this section, may utilize up to two additional persons to take shellfish from the leaseholder's lease without purchasing additional individual shellfish licenses. The leaseholder shall be on the premises supervising the person or persons, and the person or persons shall be restricted to taking shellfish only from the leaseholder's lease."

- (c) G.S. 113-182(b) is amended by adding a new subdivision to read:

"(3) The possession, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all fish taken in the Atlantic Ocean out to a distance of 200 miles from the State's mean low watermark, when the harvest or landing of the fish is controlled by a quota imposed on the State by a federal fisheries management plan."

(d) Section 3 of Chapter 576 of the 1993 Session Laws is amended by adding a new subsection to read:

"(c2) During the moratorium, a license required to participate in a fishery regulated by a federal fisheries management plan under G.S. 113-182(b)(3) may only be issued to a person who:

- (1) Held a valid vessel license issued under G.S. 113-152, a valid land or sell license issued under G.S. 113-153, or a combination of the two licenses, during at least two of the three years immediately preceding ratification;
- (2) Participated in the fishery for which a license or permit is required during at least two of the three years immediately preceding ratification;
- (3) Landed in North Carolina during each year of participation in the fishery the minimum pounds of fish as established by the Commission in duly adopted rules."

(e) The Marine Fisheries Commission may adopt temporary and permanent rules to authorize the use of no more than three crab pots for noncommercial purposes by a vessel that is not licensed under Article 14 of Chapter 113 of the General Statutes subject to the following conditions:

- (1) The owner of the vessel does not hold any fisheries licenses issued under Article 14 of Chapter 113 of the General Statutes.
- (2) Any crabs taken in these pots are not sold, offered for sale, bartered, or exchanged for merchandise.
- (f) Section 26.8C of Chapter 324 of the 1995 Session Laws is repealed.
- (g) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1995-96 fiscal year and for the 1996-97 fiscal year, the sum of twenty-five thousand dollars (\$25,000) shall be allocated each fiscal year to support the activities of the Moratorium Steering Committee.

(h) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1995-96 fiscal year and for the 1996-97 fiscal year, the sum of ten thousand dollars (\$10,000) shall be allocated each fiscal year to support the activities of the Appeals Panel during the moratorium on fisheries licenses.

- (i) Subsection (c) of this section is effective upon ratification.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

ABSTINENCE UNTIL MARRIAGE EDUCATION FUNDS

Sec. 26.5A. (a) Of the funds appropriated in Section 2 of Chapter 324 of the 1995 Session Laws to the Department of Environment, Health, and Natural Resources for health programs, the sum of up to fifty thousand dollars (\$50,000) for the 1995-96 fiscal year may be used to fund a sex education curriculum that promotes abstinence until marriage. Systems that apply for these funds may receive up to two thousand five

hundred dollars (\$2,500) each. Nothing shall prohibit a school system from receiving private funds to provide this curriculum.

(b) All applications for grants for funds prescribed in subsection (a) of this section shall contain a detailed description of the curriculum to be offered and a full set of materials to be used. Prior to making any grants, the Department shall review all curriculum descriptions and materials and shall use the results of this review in determining whether to award grants. If any of the initial school systems that apply for grants are rejected by the review process, other school systems may apply.

(c) The Department shall report on the status and funding of the abstinence until marriage education curriculum to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and to the Joint Legislative Commission on Governmental Operations by May 1, 1996.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

BEAVER DAMAGE CONTROL FUNDS

Sec. 26.6. (a) Subsection (b) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws and by Section 27.3 of Chapter 769 of the 1993 Session Laws, reads as rewritten:

"(b) The Beaver Damage Control Advisory Board shall develop a pilot program to control beaver damage on private and public lands. Bladen, Brunswick, Carteret, Chatham, Craven, Columbus, Duplin, Edgecombe, Franklin, Greene, Halifax, Hertford, Johnston, Lincoln, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties shall participate in the pilot program. The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

- (1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to landowners through beaver control and management rather than eradication;
- (2) Develop a priority system for responding to complaints about beaver damage;
- (3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;
- (4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops;
- (5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the pilot program, and set salaries of personnel;
- (6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.

No later than September 30, 1994 and again upon the conclusion of the pilot program on June 30, ~~1995~~, 1996, the Board shall issue a report to the Wildlife

Resources Commission on the program to date, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties. The Wildlife Resources Commission shall prepare a plan to implement a statewide program to control beaver damage on private and public lands. No later than January 1, 1995, the Wildlife Resources Commission shall present its plan in a report to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources."

(b) Subsection (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws and by Section 27.3 of Chapter 769 of the 1993 Session Laws, reads as rewritten:

"(h) Subsections (a) through (d) of this section expire June 30, ~~1995~~-1996."

(c) Section 7 of Chapter 358 of the 1995 Session Laws is repealed.

(d) Of the funds appropriated from the General Fund to the Wildlife Resources Commission for the 1995-96 fiscal year, there is allocated the sum of three hundred seventy-two thousand six hundred ninety dollars (\$372,690) to provide the State share necessary to continue the beaver damage control pilot program established by Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws and Section 27.3 of the 1993 Session Laws, in Bladen, Brunswick, Carteret, Chatham, Craven, Columbus, Duplin, Edgecombe, Franklin, Greene, Halifax, Hertford, Johnston, Lincoln, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties, provided the sum of twenty-five thousand dollars (\$25,000) in federal funds is available in each fiscal year to provide the federal share. These funds shall be matched by four thousand dollars (\$4,000) of local funds in each fiscal year from each of the 27 participating counties.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

STUDY ALTERNATIVES FOR DISPOSAL OF DREDGING MATERIALS

Sec. 26.7. The Department of Environment, Health, and Natural Resources shall study the feasibility and benefit of using the materials dredged from waterways to create artificial wetlands or island marshes as an alternative method of disposing of dredge material. The Department shall consider the "island marshes" located offshore of the Aransas National Wildlife Refuge on the Texas coast as a model. The Department shall report to the Joint Legislative Commission on Governmental Operations regarding its findings and recommendations by March 1, 1996.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

FOOD SANITATION FUNDS

Sec. 26.8. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year and the sum of one hundred thousand dollars

(\$100,000) for the 1996-97 fiscal year shall be used to conduct conferences to provide continuing education and training of environmental health specialists.

(b) Effective January 1, 1996, G.S. 130A-248(a3), as amended by Chapter 123 of the 1995 Session Laws, reads as rewritten:

"(a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and (a2) of this section shall address, but not be limited to, the following:

- (1) Sanitation requirements for cleanliness of floors, walls, ceilings, storage spaces, utensils, ventilation equipment, and other areas and items;
- (2) Requirements for:
 - a. Lighting and water supply;
 - b. Wastewater collection, treatment, and disposal facilities; and
 - c. Lavatory and toilet facilities, food protection, and waste disposal;
- (3) The cleaning and bactericidal treatment of eating and drinking utensils and other food-contact surfaces;
- (3a) The appropriate and reasonable use of gloves or utensils by employees who handle unwrapped food;
- (4) The methods of food preparation, transportation, catering, storage, and serving;
- (5) The health of employees;
- (6) Animal and vermin control; and
- (7) The prohibition against the offering of unwrapped food samples to the general public unless the offering and acceptance of the samples are continuously supervised by an agent of the entity preparing or offering the samples or by an agent of the entity on whose premises the samples are made available. As used in this subdivision, 'food samples' means unwrapped food prepared and made available for sampling by and without charge to the general public for the purpose of promoting the food made available for sampling. This subdivision does not apply to unwrapped food prepared and offered in buffet, cafeteria, or other style in exchange for payment by the general public or by the person or entity arranging for the preparation and offering of such unwrapped food. This subdivision shall not apply to open air produce markets nor to farmer market facilities operated on land owned or leased by the State of North Carolina or any local government.

The rules shall contain a system for grading facilities, such as Grade A, Grade B, and Grade C. The rules shall be written in a manner that promotes consistency in both the interpretation and application of the grading system."

(c) Effective January 1, 1996, G.S. 130A-39(b) reads as rewritten:

"(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Health Services or

the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the ~~grading~~ grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in G.S. 130A-247(1), and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c)."

(d) G.S. 130A-30(a) reads as rewritten:

"(a) The Commission for Health Services shall consist of ~~12~~ 13 members, four of whom shall be elected by the North Carolina Medical Society and ~~eight~~ nine of whom shall be appointed by the Governor."

(e) The Department of Environment, Health, and Natural Resources, in consultation with the North Carolina Restaurant Association, shall review all rules and forms that govern the sanitation of restaurants and other food handling establishments for vagueness, inconsistency, and lack of specificity and shall develop a plan to improve uniformity of interpretation and application of these rules across the State. The Department shall present the plan to the Commission for Health Services by December 31, 1996, along with any recommendations for rule modification. The Department, in consultation with the Association, shall continue to monitor and address the interpretation and application of the rules, forms, and other food service matters.

(f) G.S. 130A-247, as amended by Chapter 123 of the 1995 Session Laws, is amended by adding the following new subdivision to read:

"(7) 'Limited food services establishment' means an establishment as described in G.S. 130A-248(a4), with food handling operations that are restricted by rules adopted by the Commission pursuant to G.S. 130A-248(a4) and that prepares or serves food only in conjunction with amateur athletic events.'"

(g) G.S. 130A-248, as amended by Chapter 123 of the 1995 Session Laws, is amended by adding the following new subsection to read:

"(a4) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by other charitable organizations. On and after January 1, 1996, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that have applied for exemption or are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are

exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code."

(h) Notwithstanding any other provision of law, an establishment permitted as a limited food service establishment on the effective date of this act that does not meet the requirements of G.S. 130A-248(a4) may continue to operate as a limited food service establishment in accordance with the Commission's rules for not more than 60 days per year and only until January 1, 1997.

Requested by: Senators Martin of Pitt, Warren, Jordan, Kerr, Representatives Mitchell, Weatherly

FUNDS FOR HEART DISEASE AND STROKE PREVENTION TASK FORCE

Sec. 26.9. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 1996-97 fiscal year shall be used to support the North Carolina Heart Disease and Stroke Prevention Task Force created under this section.

(b) The North Carolina Heart Disease and Stroke Prevention Task Force is created in the Division of Adult Health Promotion, Department of Environment, Health, and Natural Resources.

(c) The Task Force shall have 27 members. The Governor shall appoint the Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the Division of Adult Health Promotion in the Department of Environment, Health, and Natural Resources, the Director of the Division of Medical Assistance in the Department of Human Resources, and the Director of the Division of Aging in the Department of Human Resources, or their designees, shall be members of the Task Force. Appointments to the Task Force shall be made as follows:

- (1) By the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as follows:
 - a. Three members of the Senate;
 - b. A heart attack survivor;
 - c. A local health director;
 - d. A certified health educator;
 - e. A hospital administrator; and
 - f. A representative of the North Carolina Association of Area Agencies on Aging.
- (2) By the General Assembly upon the recommendation of the Speaker of the House of Representatives, as follows:
 - a. Three members of the House of Representatives;
 - b. A stroke survivor;
 - c. A county commissioner;
 - d. A licensed dietitian/nutritionist;
 - e. A pharmacist; and
 - f. A registered nurse.
- (3) By the Governor, as follows:

- a. A practicing family physician, pediatrician, or internist;
- b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
- c. A news director of a newspaper or television or radio station;
- d. A volunteer of the North Carolina Affiliate of the American Heart Association;
- e. A representative from the North Carolina Cooperative Extension Service;
- f. A representative of the Governor's Council on Physical Fitness and Health; and
- g. Two members at large.

(d) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.

(e) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1995 General Assembly, Regular Session 1995. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(f) The Task Force shall meet at least quarterly or more frequently at the call of the Chair.

(g) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.

(h) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

(i) A majority of the Task Force shall constitute a quorum for the transaction of its business.

(j) The Task Force may use funds allocated to it to establish two positions and for other expenditures needed to assist the Task Force in carrying out its duties.

(k) The Heart Disease and Stroke Prevention Task Force has the following duties:

- (1) To undertake a statistical and qualitative examination of the incidence of and causes of heart disease and stroke deaths and risks, including identification of subpopulations at highest risk for developing heart disease and stroke, and establish a profile of the heart disease and stroke burden in North Carolina.
- (2) To publicize the profile of the heart disease and stroke burden and its preventability in North Carolina.

- (3) To identify priority strategies which are effective in preventing and controlling risks for heart disease and stroke.
- (4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (6) To adopt and promote a statewide comprehensive Heart Disease and Stroke Prevention Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funders, and other community resources.
- (7) To identify and facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.
- (8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Heart Disease and Stroke Prevention Plan.
- (9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to heart disease and stroke prevention, and their ideas for improving heart disease and stroke prevention in North Carolina.

(l) The Task Force shall submit to the Governor and to the General Assembly a preliminary report by January 1, 1996; an interim report within the first week of the convening of the 1997 General Assembly; and a final report by October 1, 1997. The reports shall address the Plan, actions and resources needed to fully implement the Plan, and progress in achieving implementation of the Plan to reduce the occurrence of and burden from heart disease and stroke in North Carolina. The reports shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended plans and programs.

(m) Upon submission of its final report to the Governor and the 1997 General Assembly, the Task Force shall expire.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

ABOVEGROUND STORAGE TANKS INSPECTION AND MONITORING/DATA COLLECTION

Sec. 26.10. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act for the 1995-96 fiscal year, the sum of three hundred thousand dollars (\$300,000) shall be used as follows:

- (1) \$250,000 shall be used to conduct periodic inspections at major oil terminal facilities, as defined in G.S. 143-215.77, in Mecklenburg County and the equipment at these facilities to determine whether oil or any other hazardous substance is being discharged into the environment and, at the facility and in the area surrounding the facility, to monitor the quality of the air, water, and soil and analyze air, water, and soil samples to determine the presence of toxic emissions, water quality degradation, or soil contamination.
- (2) \$50,000 shall be transferred to the Department of Crime Control and Public Safety to be used to establish a computerized aboveground storage tank inventory and release data base to maintain all reports it receives concerning the release of oil or hazardous substances and the information it receives on Tier Two, Emergency and Hazardous Chemical inventory forms pursuant to Section 312 of Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended, 42 U.S.C. § 11022.

(b) Beginning October 1, 1995, and quarterly thereafter, the Department of Environment, Health, and Natural Resources shall submit a report of its inspection and monitoring activities pursuant to subsection (a) of this section to the Environmental Review Commission.

Requested by: Senators Martin of Pitt, Odom, Perdue, Plyler, Hobbs, McKoy, Jordan, Kerr, Representatives Mitchell, Weatherly

ANIMAL WASTE SYSTEM COMPLIANCE INSPECTORS

Sec. 26.11. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of four hundred fifty-nine thousand two hundred ninety-two dollars (\$459,292) for the 1995-96 fiscal year and the sum of four hundred twenty-four thousand seven hundred ninety-two dollars (\$424,792) for the 1996-97 fiscal year shall be used for staff and operating expenses for the Department to conduct inspections, enforcement activities, and laboratory analyses to ensure that animal waste operations comply with the statutory and regulatory requirements for animal waste.

(b) The staff who conduct inspections pursuant to subsection (a) of this section shall cooperate with owners and operators of agricultural operations and shall provide planning assistance and oversight to ensure conformity with animal waste requirements.

Requested by: Senators Cooper, Ballance, Speed, Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito

MULTI-COUNTY WATER CONSERVATION AND INFRASTRUCTURE DISTRICT

Sec. 26.12. Effective upon ratification, Chapter 158 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 2A.

"Multi-County Water Conservation and Infrastructure District.

"§ 158-15.1. Multi-County Water Conservation and Infrastructure District.

(a) There is established the Multi-County Water Conservation and Infrastructure District, which is a public authority for the purpose of the Local Government Budget and Fiscal Control Act.

(b) The member counties of the Multi-County Water Conservation and Infrastructure District are Bertie, Granville, Halifax, Martin, Northampton, Person, Vance and Warren.

(c) The governing body of the Multi-County Water Conservation and Infrastructure District is the Multi-County Water Commission, which has eight members. One shall be appointed by the board of commissioners of each member county for a three-year term.

(d) All monies received by the State of North Carolina for sale of water under the Roanoke River Basin Compact, if enacted, shall be paid to the Multi-County Water Conservation and Infrastructure District.

(e) The District may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any political subdivision of this State or any other state, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and condition, if any, attendant upon any donation or grant accepted pursuant to this subsection together with the identity of the donor or grantor, shall be detailed in the annual audit of the District.

(f) At times specified by the Multi-County Water Commission, net revenues after operating expenses of the District shall be paid to the member counties according to the following formula: (i) one-half pro-rata based on population of each member county; and (ii) one-half pro-rata based on land area of each county.

(g) Member counties may use funds received under this section for public purposes relating to infrastructure development, economic development, and water conservation.

(h) The Commission may adopt such rules as may be needful for operation of its affairs, and shall employ and terminate personnel as if it were a county."

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

SOIL AND WATER ASSISTANCE TO SMALL, FAMILY FARMS

Sec. 26.13. (a) Of the funds appropriated in this act to the Division of Soil and Water Conservation, Department of Environment, Health, and Natural Resources, the sum of four hundred twenty-seven thousand five hundred ten dollars (\$427,510) for the 1995-96 fiscal year and the sum of four hundred twenty-seven thousand five hundred ten dollars (\$427,510) for the 1996-97 fiscal year shall be used for staff and

operating expenses for the Division to assist agricultural operations to meet the December 1997 requirements for animal waste management. When allocating these staff resources, the Division of Soil and Water Conservation shall give priority to small, family agricultural operations.

PART 26A. CAPITAL IMPROVEMENTS - GENERAL FUND

Sec. 26A. The appropriations made by the 1995 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

Sec. 26A.1. Appropriations from the General Fund for the 1995-96 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

	<u>1995-96</u>	<u>1996-97</u>
<u>Capital Improvements</u>		
Department of Administration (Total)	\$35,187,700	\$41,043,700
1. Veterans Home Reserve - to Supplement Cost of Construction	660,000	
2. Indian Culture Center Various site improvements		175,000
3. Construction of New Prison Beds		
a. Design and Preliminary Site Work for Prison Facilities	7,500,000	
b. Match for FY 1995 Federal Funds for Construction of 60 Bed Female Boot Camp	637,643	
c. Match for FY 1996 Federal Funds for Construction of New Prison Beds (effective 10/15/95)	25,576,357	40,868,700
4. Electronic Intrusion System Install Electronic Intrusion System at N.C. Correctional Institution for Women	813,700	
Department of Agriculture (Total)	2,257,200	4,000,000
5. Dairy Facility - Cherry Farm		
Total Requirements	507,200	
Less: Timber Sales		

Receipts	<u>250,000</u>	257,200	
6. Eastern N.C. Agricultural Center Continued Development		2,000,000	4,000,000
Department of Crime Control and Public Safety (Total)		200,000	
7. Kinston National Guard Armory Additional State match for bid overrun		200,000	
Department of Cultural Resources (Total)		8,100,000	250,000
8. Reserve for Land acquisition and development		3,000,000	
9. Elizabeth II State Historic Site		5,000,000	
10. Museum of Art-Facilities Planning			250,000
11. N.C. Pottery Center-Planning		100,000	
Department of Human Resources (Total)		982,000	2,288,000
12. Gaston Detention Center		270,000	
13. Northeast Detention Center			1,800,000
14. Eastern N.C. School for Deaf - Capital Improvements		712,000	488,000
Department of Justice (Total)		1,915,400	4,091,200
15. N.C. Justice Academy- Replace Blue Bell Building at N.C. Justice Academy			1,500,000
16. N.C. Justice Academy- Replace maintenance shed		445,400	
17. N.C. Justice Academy- Construct new classroom building			2,591,200
18. Western Justice Academy		1,470,000	
Environment, Health, and Natural Resources (Total)		13,515,000	7,050,000
19. State Parks System - Construction, acquisition, repairs			

	and renovations	10,000,000	
20.	North Carolina Aquariums Planning	300,000	1,000,000
21.	Museum of Natural Science - Exhibits Planning and Design	400,000	
22.	Water Resources Projects	2,065,000	
23.	Marine Fisheries - Replacement of law enforcement vessel		300,000
24.	Water and Sewer Demonstration Projects - New technology projects particularly in the area of environmental disposal and system creation		5,000,000
25.	Forestry Headquarters Reserve - Replacement of Facilities at County and District Headquarters sites	750,000	750,000
State Budget and Management (Total)		2,285,000	2,000,000
26.	Global TransPark Engineering and design for Kinston Regional Jet Port Military Construction Project (State Match)	285,000	
27.	Reserve for cleanup of hazardous waste sites	2,000,000	2,000,000
UNC Board of Governors (Total)		49,080,200	96,544,100
28.	NC State University Centennial Center Funds	3,500,000	3,500,000
29.	UNC-Chapel Hill/N.C. State University Marine Science Facility	500,000	7,300,000
30.	UNC-TV Southeastern Tower in Lumberton	500,000	1,480,000
31.	UNC-Chapel Hill Law School	5,057,600	5,000,000
32.	UNC-Chapel Hill School of Pharmacy Planning		1,000,000
33.	East Carolina University- Life Sciences Building	2,700,000	4,423,800
34.	NC A&T State University Classroom Building Planning		1,000,000
35.	UNC-Asheville Kellogg Center	500,000	

36.	UNC-General Administration Administrator's Academy		9,871,100
37.	NC State University 4-H Environmental Education Center		2,545,300
38.	NC Central University Education Building	6,031,700	9,600,000
39.	Elizabeth City State University Vaughan Center Addition		2,190,500
40.	Fayetteville State University Student Center Addition	3,790,900	
41.	UNC-Chapel Hill Center for Dramatic Art		8,394,800
42.	UNC-Chapel Hill Medical Biomolecular and Neuro- sciences Research Building		1,000,000
43.	Appalachian State University Convocation Center	10,000,000	10,601,100
44.	UNC Wilmington Marine Science Building	6,000,000	10,000,000
45.	UNC Charlotte Library Addition	4,500,000	16,071,500
46.	NC School of the Arts Student Activity Center		2,566,000
47.	NC State University School of Agriculture (includes \$500,000 planning funds for Toxicology Building)	6,000,000	
TOTAL CAPITAL		\$113,522,500	\$157,267,000

PART 27. CAPITAL AND SPECIAL PROVISIONS

Requested by: Senators Warren, Gulley, Plyler, Perdue, Odom, Representatives Ives, Lemmond, Culpepper, Holmes, Creech, Esposito

NORTH CAROLINA INFORMATION HIGHWAY FUNDS

Sec. 27. (a) The funds appropriated in this act to the Office of the State Controller for the operation of the North Carolina Information Highway shall be used only for costs incurred by the Office of the State Controller related to the operations and support of the North Carolina Information Highway. No funds appropriated in this act shall be expended to pay Minimum Monthly Usage charges for North Carolina Information Highway services until such time as the Controller certifies to the General Assembly that the network is capable of performing all services for which the State has contracted and that the network equipment and service providers are capable of

providing full and adequate support for the network's functions and to all qualified users.

(b) No State funds may be used or encumbered to expand the sites for the North Carolina Information Highway beyond the 74 sites approved by the General Assembly. No expansion of sites for the North Carolina Information Highway shall obligate the North Carolina General Assembly for future additional State appropriations. If other non-state funds are used to expand sites beyond the 74 approved sites, no State funds may be used or encumbered for those sites. However, if other State agencies excluding the 74 sites have received State funds prior to June 30, 1995, to allow them to set up a site or to come on line with the North Carolina Information Highway, then that agency may purchase equipment or come on line; but, the General Assembly shall not be obligated for future or continuing State appropriations for any site beyond the 74 approved sites.

(c) Beginning October 1, 1995, the Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations regarding the costs incurred by the Office of the State Controller related to the operations and support of the North Carolina Information Highway, and shall make a final report to the General Government Appropriations Subcommittees for the Senate and the House of Representatives and to the 1995 General Assembly, 1996 Regular Session.

(d) For purposes of this section the term "North Carolina Information Highway" means the new, high-capacity optical fiber network that uses SONET transmission technology and ATM switching.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
DATA PROCESSING RESERVE

Sec. 27.1. The Office of State Controller and the Office of State Budget and Management shall jointly study the State Computer Center, demand estimates, and shall submit to the 1995 General Assembly, Regular Session 1996, by May 1, 1996, a comprehensive report detailing projected cost needs for the 1996-97 fiscal year and the funding source for those needs in excess of the level funded in Chapter 324 of the 1995 Session Laws, the Continuation Budget Appropriations Act of 1995, and in this act.

Requested by: Representatives Holmes, Creech, Esposito
**APPALACHIAN STATE UNIVERSITY'S MASTER OF SCHOOL
ADMINISTRATION PROGRAM CONTINUED**

Sec. 27.2. (a) G.S. 116-74.21(b) reads as rewritten:

"(b) No more than ~~seven~~eight school administrator programs shall be established under the competitive proposal program. In selecting campus sites, the Board of Governors shall be sensitive to the racial, cultural, and geographic diversity of the State. Special priority shall be given to the following factors: (i) the historical background of the institutions in training educators; (ii) the ability of the sites to serve the geographic regions of the State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii) whether the type of roads and terrain in a region make commuting difficult. A school administrator program may provide for instruction at one or more campus sites."

(b) The Board of Governors of The University of North Carolina shall continue the Master of School Administrators program at Appalachian State University as one of the eight school administrator programs established pursuant to G.S. 116-74.21.

Requested by: Representatives Holmes, Creech, Esposito

**PIEDMONT SPORTS AND ENTERTAINMENT FACILITIES STUDY
COMMISSION**

Sec. 27.3. Section 28.21 of Chapter 769 of the 1993 Session Laws, Regular Session 1994, reads as rewritten:

"Sec. 28.21. (a) The Piedmont Sports and Entertainment Study Commission is created. The Commission shall consist of 35 members. The boards of county commissioners of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties shall, each, appoint two members of the Commission; one of whom shall be a county commissioner of that county and one of whom is a resident of that county recommended by the chamber of commerce serving that county. Eleven members shall be appointed by the Chair of the Commission. The chair and vice-chair of the Piedmont State Legislative Caucus, as the Caucus existed during the ~~1994-1995~~ Regular Session, shall be ex officio members of the Commission and shall serve, respectively, as the chair and vice-chair of the Commission.

(b) The Commission shall study the need for and feasibility of creating regional sports and entertainment facilities to serve the Piedmont area of the State; and, if the Commission determines the facilities are needed and their creation feasible, the best method to establish an Authority to implement these facilities.

(c) The Commission shall submit a report of its findings and recommendations to the General Assembly on or before the first day of the 1995 General ~~Assembly~~ Assembly, Regular Session 1996, by filing the report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its report, the Commission shall terminate.

(d) The Commission may meet at any time upon the call of the chair. The Commission may meet, with the approval of the Legislative Services Commission, in the State Legislative Building or the Legislative Office Building.

(e) Notwithstanding any other provision of law, members of the Commission shall receive no per diem compensation, but shall receive reimbursement of subsistence and travel expenses, as provided by law.

(f) The Commission may contract for professional, clerical, or consultant services. The Department of Commerce shall assign professional and clerical staff to assist in the work of the Commission.

(g) When a vacancy occurs in the membership of the Commission, the vacancy shall be filled by the original appointing authority employing the same criteria as used in the original appointment.

(h) From the funds appropriated to the Department of Commerce for fiscal year ~~1994-95, 1995-96~~, the sum of twenty-five thousand dollars (\$25,000) shall be used for the expenses of the Commission."

Requested by: Representatives Holmes, Creech, Esposito

DELIVERY OF WARRANTS AND DISBURSEMENTS FOR NON-STATE ENTITIES

Sec. 27.4. G.S. 143-3.2(a) reads as rewritten:

"§ 143-3.2. Issuance of warrants upon State Treasurer. Treasurer; delivery of warrants and disbursements for non-State entities.

(a) The State Controller shall have the exclusive responsibility for the issuance of all warrants for the payment of money upon the State Treasurer. All warrants upon the State Treasurer shall be signed by the State Controller, who before issuing them shall determine the legality of payment and the correctness of the accounts. All warrants issued for non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic funds transfer.

When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to make expenditures through a disbursing account with the State Treasurer. The State Controller shall authorize the Judicial Department and the General Assembly to make expenditures through such disbursing accounts. All disbursements made to non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic funds transfer. All deposits in these disbursing accounts shall be by the State Controller's warrant. A copy of each voucher making withdrawals from these disbursing accounts and any supporting data required by the State Controller shall be forwarded to the Office of the State Controller monthly or as otherwise required by the State Controller. Supporting data for a voucher making a withdrawal from one of these disbursing accounts to meet a payroll shall include the amount of the payroll and the employees whose compensation is part of the payroll.

A central payroll unit operating under the Office of the State Controller may make deposits and withdrawals directly to and from a disbursing account. The disbursing account shall constitute a revolving fund for servicing payrolls passed through the central payroll unit.

The State Controller may use a facsimile signature machine in affixing his signature to warrants.

(b) The State Treasurer may impose on an agency a fee of fifteen dollars (\$15.00) for each check drawn against the agency's disbursing account that causes the balance in the account to be in overdraft or while the account is in overdraft. The financial officer shall pay the fee from non-State or personal funds to the General Fund to the credit of the miscellaneous non-tax revenue account by the agency."

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper

LOCAL HISTORICAL ORGANIZATIONS GRANTS

Sec. 27.5. Of the funds appropriated in this act for the 1995-96 fiscal year to the Department of Cultural Resources the sum of three million dollars (\$3,000,000) shall be distributed as grants-in-aid to nonprofit historical organizations, nonprofit

museums, or local governmental entities in accordance with administrative guidelines issued by the Secretary of the Department of Cultural Resources. The purpose of the grants shall be to encourage, through the use of grants-in-aid, the protection, preservation, and interpretation of historic assets with local or regional significance. Priority consideration shall be given to the local historical organization's educational objectives. Grants shall be limited to amounts of one hundred thousand dollars (\$100,000) or less.

Requested by: Senators Warren, Gulley, Representatives Ives, Lemmond, Culpepper
LOCAL CULTURAL AND ARTISTIC ORGANIZATIONS GRANTS

Sec. 27.6. Of the funds appropriated in this act for the 1995-96 fiscal year to the Department of Cultural Resources the sum of three million dollars (\$3,000,000) shall be distributed as grants-in-aid to nonprofit local cultural or artistic organizations or local governmental entities in accordance with administrative guidelines issued by the Secretary of the Department of Cultural Resources. The purpose of the grants shall be to support and promote, through the use of grants-in-aid, local cultural and artistic organizations with local or regional significance. Priority consideration shall be given to the local cultural or artistic organization's educational objectives. Grants shall be limited to amounts of one hundred thousand dollars (\$100,000) or less.

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

**IMPROVEMENT OF THE ADMINISTRATIVE RULES
PROCESS/LEGISLATIVE OVERSIGHT/FISCAL ACCOUNTABILITY**

Sec. 27.8 LEGISLATION IMPROVING THE ADMINISTRATIVE RULES
PROCESS

LEGISLATIVE OVERSIGHT

(a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12K.

"Joint Legislative Administrative Procedure Oversight Committee.

"§ 120-70.100. Creation and membership of Joint Legislative Administrative Procedure Oversight Committee.

(a) The Joint Legislative Administrative Procedure Oversight Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party.
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

(b) Members of the Committee shall serve a term of two years beginning on January 15 of each odd-numbered year. 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.

"§ 120-70.101. Purpose and powers of Committee.

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

- (1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.
- (2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.
- (3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.
- (4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.
- (5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.
- (6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.
- (7) To review any other concerns about administrative law to determine if statutory changes are needed.
- (8) To report to the General Assembly at the beginning of each regular session concerning the Committee's activities and any recommendations for statutory changes.

"§ 120-70.102. 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 Administrative Procedure Oversight Committee. 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 Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Legislative Services Commission, through the

Legislative Administrative 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 paid by the Committee.

"§ 120-70.103. Exercise of duty to maintain a notebook of approved rules.

With the approval of the Legislative Services Commission, the Joint Legislative Administrative Procedure Oversight Committee may delegate to the Legislative Library the duty to maintain a notebook containing rules approved by the Rules Review Commission. Whether the notebook is maintained by the Committee or by the Legislative Library, rules shall be filed in the notebook in accordance with the numbering system used in the North Carolina Administrative Code."

AGENCY FISCAL NOTE REQUIRED BEFORE PUBLISHING PROPOSED PERMANENT RULE CHANGE OF SUBSTANTIAL ECONOMIC IMPACT

(b) G.S. 150B-21.4 is amended by adding two new subsections to read:

"(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency must obtain a fiscal note for the proposed rule change from the Office of State Budget and Management or prepare a fiscal note for the proposed rule change and have the note approved by that Office. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change may prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management must review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency may ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact.

As used in this subsection, the term 'substantial economic impact' means an aggregate financial impact on all persons affected of at least five million dollars (\$5,000,000) in a 12-month period.

(b2) Content. – A fiscal note required by subsection (b1) of this section must contain the following:

- (1) A description of the persons who would be affected by the proposed rule change.

- (2) A description of the types of expenditures that persons affected by the proposed rule change would have to make to comply with the rule and an estimate of these expenditures.
- (3) A description of the purpose and benefits of the proposed rule change.
- (4) An explanation of how the estimate of expenditures was computed."

PROCEDURE FOR ADOPTING A PERMANENT RULE

- (c) G.S. 150B-21.1 reads as rewritten:

"§ 150B-21.1. Procedure for adopting a temporary rule.

(a) Adoption. – An agency may adopt a temporary rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) The effective date of a recent act of the General Assembly or the United States Congress.
- (3) A recent change in federal or State budgetary policy.
- (4) A federal regulation.
- (5) A court order.
- (6) The need for the rule to become effective the same date as the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan.

An agency must prepare a written statement of its findings of need for a temporary rule. The statement must be signed by the head of the agency adopting the rule.

~~An agency must begin rule-making proceedings for a permanent rule by the day it adopts a temporary rule. An agency begins rule-making proceedings for a permanent rule by submitting to the Codifier of Rules written notice of its intent to adopt a permanent rule.~~

(b) Review. – When an agency adopts a temporary rule it must submit the ~~rule, rule and the agency's~~ written statement of its findings of the need for the rule, ~~and the notice of intent to adopt a permanent~~ rule to the Codifier of Rules. Within one business day after an agency submits a temporary rule, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need meets the criteria listed in subsection (a). In reviewing the statement, the Codifier of Rules may consider any information submitted by the agency or another person. If the Codifier of Rules finds that the statement meets the criteria, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code.

If the Codifier of Rules finds that the statement does not meet the criteria, the Codifier of Rules must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Codifier of Rules must review the additional findings or new statement within one business day after the agency submits the additional findings or new statement. If the Codifier of

Rules again finds that the statement does not meet the criteria listed in subsection (a), the Codifier of Rules must immediately notify the head of the agency.

If an agency decides not to provide additional findings or submit a new statement when notified by the Codifier of Rules that the agency's findings of need for a rule do not meet the required criteria, the agency must notify the Codifier of Rules of its decision. The Codifier of Rules must then enter the rule in the North Carolina Administrative Code on the sixth business day after receiving notice of the agency's decision.

(c) **Standing.** – A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) and whether the rule meets the standards in G.S. 150B-21.9 that apply to review of a permanent rule. The court ~~may~~shall not grant an ex parte temporary restraining order.

Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) **Effective Date and Expiration.** – A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule or 180 days from the date the rule becomes effective, whichever comes first.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule, if the Commission objects to the permanent rule.

(e) **Publication.** – When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register. Publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings for a permanent rule that does not differ substantially from the published temporary rule."

(d) G.S. 150B-21.2 reads as rewritten:

"§ 150B-21.2. Procedure for adopting a permanent rule.

(a) **Steps.** – Before an agency adopts a permanent rule, it must take the following actions:

- (1) Publish a notice of rule-making proceedings in the North Carolina Register, unless the proposed rule is substantially the same as a temporary rule published in the North Carolina Register.
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.

- (3) Publish the text of the proposed rule in the North Carolina Register.
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

~~Notice.—Before an agency adopts a permanent rule, it must publish notice of its intent to adopt a permanent rule in the North Carolina Register and as required by any other law. The notice published in the North Carolina Register must include all of the following:~~

- ~~(1) Either the text of the proposed rule or a statement of the subject matter of the proposed rule making.~~
- ~~(2) A short explanation of the reason for the proposed action.~~
- ~~(3) A citation to the law that gives the agency the authority to adopt the proposed rule, if the notice includes the text of the proposed rule, or a citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making, if the notice includes only a statement of the subject matter of the proposed rule making.~~
- ~~(4) The proposed effective date of the proposed rule, if the notice includes the text of the proposed rule, or the proposed effective date of a rule adopted on the subject matter of the proposed rule making, if the notice includes only a statement of the subject matter of the proposed rule making.~~
- ~~(5) The date, time, and place of any public hearing scheduled on the proposed rule or subject matter of the proposed rule making.~~
- ~~(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) requires the agency to hold a public hearing on the proposed rule when requested to do so.~~
- ~~(7) The period of time during which and the person to whom written comments may be submitted on the proposed rule or subject matter of the proposed rule making.~~
- ~~(8) If a fiscal note has been prepared for the proposed rule or will be prepared when a rule is proposed on the subject matter of the proposed rule making, a statement that a copy of the fiscal note can be obtained from the agency.~~

(b) Notice of Rule-Making Proceedings. – A notice of rule-making proceedings published in the North Carolina Register must include all of the following:

- (1) A statement of the subject matter of the proposed rule making.
- (2) A short explanation of the reason for the proposed action.
- (3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.
- (4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

Publication in the North Carolina Register of an agency's rule-making agenda satisfies the requirements of this subsection if the agenda includes the information required by this subsection.

(c) Text After Notice of Rule-Making Proceedings. – A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule.
- (2) A short explanation of the reason for the proposed rule.
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The period of time during which and the person to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

An agency shall not publish the proposed text of a rule until at least 60 days after the date the notice of rule-making proceedings for the proposed rule was published in the North Carolina Register.

~~(b)(d)~~ (d) Mailing List. – An agency must maintain a mailing list of persons who have requested notice of rule making. When an agency publishes a rule-making notice in the North Carolina Register, Register a notice of rule-making proceedings or the text of a proposed rule, it must mail a copy of the notice or text to each person on the mailing list who has requested notice of rule-making proceedings on the rule or the subject matter for rule making described in the notice. notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

~~(e)(e)~~ (e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt in two circumstances and may hold a public hearing in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published.

~~An agency must hold a public hearing on a rule it proposes to adopt in the following two circumstances:~~

- ~~(1) The agency publishes a statement of the subject matter of the proposed rule making in the notice in the North Carolina Register.~~
- ~~(2) The if the agency publishes the text of the proposed rule in the notice in the North Carolina Register and all the following apply:~~

- a.(1) The notice of rule-making proceedings does not schedule a public hearing on the proposed rule.
- b.(2) Within 15 days after the notice is published, the The agency receives a written request for a public hearing on the proposed rule. rule within 15 days after the notice of rule-making proceedings is published.
- e. The proposed rule is not part of a rule-making proceeding the agency initiated by publishing a statement of the subject matter of proposed rule making.
- d.(3) The proposed text is not a changed version of proposed text the agency previously published in the course of rule-making proceedings but did not adopt.

An agency may hold a public hearing on a proposed rule in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published.

~~(d)~~ Text After Subject Matter Notice. — When an agency publishes notice of the subject matter of proposed rule making in the North Carolina Register, it must subsequently publish in the North Carolina Register the text of the rule it proposes to adopt as a result of the public hearing and of any comments received on the subject matter. An agency may not publish the proposed text of a rule for which it published a subject matter notice before the public hearing on the subject matter.

~~(e)(f)~~ Comments. — An agency must accept comments on a notice of proposed rule-making proceedings published in the North Carolina Register until the text of the proposed rule that results from the notice is published. An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and that requires a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must accept comments on the text of a any other proposed rule published in the North Carolina Register for at least 30 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must accept comments on a statement of the subject matter of proposed rule making until the public hearing on the subject matter. An agency must consider fully all written and oral comments received.

~~(f)(g)~~ Adoption. — An agency may shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and may shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. An agency may shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (e)-(f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on either the notice published in the North Carolina Register of rule-making proceedings or the proposed text of the rule, rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it ~~may~~shall not take subsequent action on the rule without following the procedures in this Part.

~~(g)~~(h) Explanation. – An agency must issue a concise written statement explaining why the agency adopted a rule if, within 30 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule.

~~(h)~~(i) Record. – An agency must keep a record of a rule-making proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, and any written explanation made by the agency for adopting the rule."

RULES REVIEW COMMISSION ROLE STRENGTHENED

(e) G.S. 150B-21.3 reads as rewritten:

"§ 150B-21.3. Effective date of rules.

(a) Temporary Rule. – A temporary rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective ~~five business days after the Commission delivers the rule to the Codifier of Rules, unless the agency adopting the rule specifies a later effective date. If the agency specifies a later effective date, the rule becomes effective on that date.~~ on the thirty-first legislative day of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a later effective date applies under this subsection. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission ~~becomes effective five business days after the agency adopting the rule delivers the rule to the Codifier of Rules, unless the agency adopting the rule specifies a later effective date. If the agency specifies a later effective date, the rule becomes~~

effective on that date or that is specifically disapproved by a bill ratified by the General Assembly before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(c) Executive Order Exception. – The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission and has not become effective under subsection (b) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill ratified on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill ratified by the General Assembly is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill ratified by the General Assembly within the time set by this subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(d) Legislative Day and Day of Adjournment. – As used in this section:

- (1) A 'legislative day' is a day on which either house of the General Assembly convenes in regular session.
- (2) The 'day of adjournment' of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution for more than 10 days.
- (3) The 'day of adjournment' of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e)(e) OSHA Standard. – A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date."

(f) G.S. 150B-21.9(a) reads as rewritten:

"(a) Standards. – The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to fulfill a duty delegated to the agency by the General Assembly. Assembly, when considered in light of the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed and the legislative intent of the General Assembly in delegating the duty.

The Commission may determine if a rule submitted to it was adopted in accordance with Part 2 of this Article. The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

The Commission must notify the agency that adopted the rule if it determines that a rule was not adopted in accordance with Part 2 of this Article and must return the rule to the agency. Entry of a rule in the North Carolina Administrative Code after review by the Commission is conclusive evidence that the rule was adopted in accordance with Part 2 of this Article."

(g) G.S. 150B-21.11, as amended by Section 4 of Chapter 415 of the 1995 Session Laws, reads as rewritten:

"§ 150B-21.11. Procedure when Commission approves permanent rule.

(a) When the Commission approves a permanent rule, it must notify the agency that adopted the rule of the Commission's ~~approval and must approval~~, deliver the approved rule to the Codifier of Rules. Rules, and include the text of the approved rule and a summary of the rule in its next report to the Joint Legislative Administrative Procedure Oversight Committee. The Commission must deliver an approved rule by the end of the month in which the Commission approved the rule, unless the agency asks the Commission to delay the delivery of the rule.

(b) ~~When the Commission approves a permanent rule that would~~ If the approved rule will increase or decrease expenditures or revenues of a unit of local government, the Commission shall must also notify the Governor of the Commission's approval of the rule and deliver a copy of the approved rule to the Governor by the end of the month in which the Commission approved the rule."

(h) G.S. 150B-21.12 reads as rewritten:

"§ 150B-21.12. Procedure when Commission objects to a permanent rule.

(a) Action. – When the Commission objects to a permanent rule, it must send the agency that adopted the rule a written statement of the objection and the reason for the objection. The agency that adopted the rule must take one of the following actions:

- (1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.
- (2) Submit a written response to the Commission indicating that the agency has decided not to change the rule.

~~(b) Time Limit. – An agency that is not a board or commission must take one of these the actions listed in subsection (a) of this section within 30 days after receiving the Commission's statement of objection. A board or commission must take one of these actions within 30 days after receiving the Commission's statement of objection or within 10 days after the board or commission's next regularly scheduled meeting, whichever comes later.~~

~~(c) Changes. – When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection.~~

~~(d) Return of Rule. – A rule to which the Commission has objected remains under review by the Commission until the agency that adopted the rule decides not to satisfy the Commission's objection and makes a written request to the Commission to return the rule to the agency. When the Commission returns a rule to which it has objected, it may send to the President of the Senate and each member of the General Assembly a report of its objection to the rule. must notify the Codifier of Rules of its action and must send a copy of the record of the Commission's review of the rule to the Joint Legislative Administrative Procedure Oversight Committee in its next report to that Committee. If the rule that is returned would have increased or decreased expenditures or revenues of a unit of local government, the Commission must also notify the Governor of its action and must send a copy of the record of the Commission's review of the rule to the Governor. The record of review consists of the rule, the Commission's letter of objection to the rule, the agency's written response to the Commission's letter, and any other relevant documents before the Commission when it decided to object to the rule.~~

~~(b) Entry In Code. – When the Commission returns a rule to which it has objected to the agency that adopted the rule, the Commission must notify the Codifier of Rules of its action and of the basis of the Commission's objection. An agency whose rule is returned may file the rule with the Codifier of Rules. When the Codifier of Rules enters in the North Carolina Administrative Code a rule to which the Commission objected, the entry must reflect the Commission's objection and must state the standard on which the Commission based its objection."~~

(i) G.S. 150B-21.15 is repealed. This subsection does not abate any action or appeal brought under G.S. 150B-21.15 prior to the effective date of this section.

RULES REVIEW COMMISSION'S MONTHLY REPORT TO JOINT
LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
COMMITTEE

(j) Part 3 of Article 2B of Chapter 150B of the General Statutes is amended by adding a new section to read:

"§ 150B-21.16. Report to Joint Legislative Administrative Procedure Oversight Committee.

The Commission must make monthly reports to the Joint Legislative Administrative Procedure Oversight Committee. The reports are due by the last day of the month. A report must include the rules approved by the Commission at its meeting held in the month in which the report is due and the rules the Commission returned to agencies during that month after the Commission objected to the rule. A report must include any other information requested by the Joint Legislative Administrative Procedure Oversight Committee. When the Commission sends a report to the Joint Legislative Administrative Procedure Oversight Committee, the Commission must send a copy of the report to the Codifier of Rules."

PUBLISHING AND CODIFYING OF RULES

(k) G.S. 150B-21.17(a) reads as rewritten:

"(a) Content. – The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

- (1) Temporary rules entered in the North Carolina Administrative Code.
- ~~(1)~~(1a) Notices of proposed adoptions rule-making proceedings, the text of proposed rules, rules, and the text of permanent rules approved by the Commission.
- (2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.
- (3) Executive orders of the Governor.
- (4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.
- (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- (6) Other information the Codifier determines to be helpful to the public."
- (l) G.S. 150B-21.19 reads as rewritten:

"§ 150B-21.19. Requirements for including rule in Code.

To be acceptable for inclusion in the North Carolina Administrative Code, a rule must:

- (1) Cite the law under which the rule is adopted.
- (2) Be signed by the head of the agency or the rule-making coordinator for the agency that adopted the rule.
- (3) Be in the physical form specified by the Codifier of Rules.
- (4) Have been ~~reviewed~~ approved by the Commission, if the rule is a permanent rule."

CHANGES IN EXEMPTIONS FROM RULE MAKING

(m) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.

- (2) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-10 and G.S. 104G-11.
- (3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.
- (4) The Department of Revenue, ~~except that Parts 3 and 4 of Article 2A apply to the Department.~~ with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees."

CONFORMING CHANGES

- (n) [Employment Security Commission] G.S. 96-4(b) reads as rewritten:

"(b) Regulations and General and Special Rules. – General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given by mail to the last known address in cases of special rules, or by publication as herein provided, and by one publication as herein provided as to general rules. The Commission shall not take final action on a general or special rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), until 60 days after the Office of State Budget and Management has prepared a fiscal note for the rule. General rules shall become effective 10 days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective 10 days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Before the adoption, amendment, or repeal of any permanent regulation, the Commission shall publish notice of the public hearing and offer any person an opportunity to present data, opinions, and arguments. The notice shall be published in one or more newspapers of general circulation in this State at least 10 days before the public hearing and at least 20 days prior to the proposed effective date of the proposed permanent regulation. The published notice of public hearing shall include the time and place of the public hearing; a statement of the manner in which data, opinions, and arguments may be submitted to or before the Commission; a statement of the terms or substance of the proposed regulation; a statement of whether a fiscal note has been or will be prepared for the proposed regulation; and the proposed effective date of the regulation. Any permanent regulation adopted after following the above procedure shall become effective on its effective date and after it is published in the manner provided for in subsection (c) as well as such additional publication as the Commission deems appropriate. Additionally, the Commission shall provide notice of adoption by mail to the last known addresses of all persons who submitted data, opinions, or arguments to the Commission with respect to the regulation. Temporary regulations may be adopted, amended, or rescinded by the Commission and shall

become effective in the manner and at the time prescribed by the Commission but shall remain in force for no longer than 120 days."

(o) [Industrial Commission] G.S. 97-80(a) reads as rewritten:

"(a) The Commission may make rules, not inconsistent with this Article, for carrying out the provisions of this Article. The Commission shall request the Office of State Budget and Management to prepare a fiscal note for a proposed new or amended rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Commission shall not take final action on a proposed rule change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared.

Processes, procedure, and discovery under this Article shall be as summary and simple as reasonably may be."

(p) [Department of Revenue] G.S. 105-262 reads as rewritten:

"§ 105-262. Rules.

(a) The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. The Tax Review Board shall review a new rule or a change to a rule before it is filed in the North Carolina Administrative Code.

(b) The Secretary must ask the Office of State Budget and Management to prepare a fiscal note for a proposed new rule or a proposed change to a rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Secretary shall not take final action on a proposed rule change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared."

(q) G.S.143-214.7(c) reads as rewritten:

~~"(c) The Commission shall hold public hearings in accordance with Article 2 of Chapter 150B. Prior to implementation of the rules, the Administrative Rules Review Commission shall review the rule pursuant to G.S. 143B-30.2 to determine whether the rule:~~

- ~~(1) Is within the authority delegated to the agency by the General Assembly;~~
- ~~(2) Is clear and unambiguous;~~
- ~~(3) Is reasonably necessary to enable the administrative agency to perform a function assigned to it by statute or to enable or facilitate the implementation of a program or policy in aid of which the rule was adopted.~~

Chapter 150B of the General Statutes governs adoption of rules by the Commission."

(r) [Building Code Council] G.S. 143-138(a) reads as rewritten:

"(a) Preparation and Adoption. – The Building Code Council is hereby empowered to prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. Prior to the adoption of this Code, or any part thereof, the Council shall hold at least one public hearing. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published in Raleigh, said notice to be published the first time not less than 15 days prior to the date fixed for said hearing. The Council may hold such other public hearings and give such other notice as it may deem necessary.

The Council shall request the Office of State Budget and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Council shall not take final action on a proposed Code change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared."

(s) G.S. 143-215(c), 143-215(d), 143-215.107(f), and 143-215.107(g) are repealed.

(t) Notwithstanding G.S. 120-70.100(b), as enacted by subsection (a) of this section, the terms of initial members of the Joint Legislative Administrative Procedure Oversight Committee shall begin upon appointment and shall end on January 15, 1997.

(u) G.S. 148-11 reads as rewritten:

"§ 148-11. Authority to adopt rules.

The Secretary shall adopt rules for the government of the State prison system. ~~Chapter 150B of the General Statutes governs the adoption of rules by the Secretary.~~ The Secretary shall have the rules that pertain to enforcing discipline read to every prisoner when received in the State prison system and a printed copy of these rules made available to the prisoners."

(v) G.S. 150B-21(b)(5), as enacted by Section 1 of Chapter 415 of the 1995 Session Laws, reads as rewritten:

"(5) Providing the North Carolina Association of County Commissioners and the North Carolina League of Municipalities with copies of all fiscal notes required by G.S. 150B-21.4(b), prior to ~~the publication of proposed rules in the North Carolina Register.~~ Register of the proposed text of a permanent rule change."

(w) G.S. 150B-21.26, as enacted by Section 3 of Chapter 415 of the 1995 Session Laws, reads as rewritten:

"§ 150B-21.26. Governor to conduct preliminary review of certain administrative rules.

(a) Preliminary Review. ~~—Before—~~At least 30 days before an agency adopts a publishes in the North Carolina Register the proposed text of a permanent rule change that would affect the expenditures or revenues of a unit of local government, and at least 30 days prior to publishing notice of its intent to adopt such permanent rule in the North Carolina Register as required by G.S. 150B-21.2, an agency shall the agency must submit the rule all of the following to the Governor for preliminary review.

(b) Submission. ~~—To facilitate the Governor's preliminary review of a permanent rule as required by subsection (a) of this section, the agency shall submit to the Governor the following:~~

- (1) ~~Either the~~The text of the proposed rule ~~or a statement of the subject matter of the proposed rule.~~ change.
- (2) A short explanation of the reason for the proposed ~~action.~~ change.
- (3) A fiscal note stating the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and explaining how the amount was computed.

(e)(b) Scope. – The Governor's preliminary review of a proposed permanent rule change that would affect the expenditures or revenues of a unit of local government shall include consideration of the following:

- (1) The agency's explanation of the reason for the proposed action-change.
- (2) Any unanticipated effects of the proposed action-change on local government budgets.
- (3) The potential costs of the proposed action-change weighed against the potential risks to the public of not taking the proposed action-change."
- (x) G.S. 150B-21.27, as enacted by Section 3 of Chapter 415 of the 1995

Session Laws, reads as rewritten:

"§ 150B-21.27. Minimizing the effects of rules on local budgets.

(a) In adopting permanent rules that would increase or decrease the expenditure expenditures or revenues of a unit of local government, the agency shall consider the timing for implementation of the proposed rule as part of the preparation of the fiscal note required by G.S. 150B-21.4(b). ~~(b) In cases where~~ If the computation of costs in a fiscal note indicates that the proposed rule action-change will disrupt the budget process as set out in the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, the agency shall ~~establish~~ specify the effective date of the rule ~~or action-change~~ as the later of July 1 of the fiscal year following publication of the rule in the North Carolina Register or six months following publication. ~~(c) If conditions beyond the control of an agency compel an agency to adopt rules with other than the July 1 effective date, the agency shall include a statement with the fiscal note explaining the basis for the effective date.~~ the date the change would otherwise become effective under G.S. 150B-21.3."

(y) Section 5 of Chapter 415 of the 1995 Session Laws is repealed.

(z) This section becomes effective December 1, 1995, and applies to all rules for which a notice of rule making is published in the North Carolina Register on or after that date and to rule and Building Code changes that are initiated on or after that date and that are not subject to the rule-making procedures set out in Article 2A of Chapter 150B of the General Statutes.

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

WESTERN JUSTICE ACADEMY

Sec. 27.9. Of the funds appropriated to the Department of Justice in this act for the 1995-97 biennium, the sum of one million four hundred seventy thousand dollars (\$1,470,000) shall be used for design and planning and the purchase of real property for the Western Justice Academy at a site to be located at Edneyville in Henderson County.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand
CONSOLIDATION OF PRISON FACILITIES/PRISON CONSTRUCTION

Sec. 27.10. (a) In order to continue the recommendations of the Government Performance Audit Committee pertaining to the consolidation of smaller

prison units in Western North Carolina into a lesser number of facilities, the Department of Correction shall develop and implement plans to close Avery Correctional Center, Watauga Correctional Center, and Yancey Correctional Center and replace them with a facility to be constructed at a site in Avery and Mitchell Counties.

(b) The Office of State Construction of the Department of Administration may contract for and supervise all aspects of administration, technical assistance, design, construction, or demolition of prison facilities in order to implement the providing of prison facilities under the provisions of this act.

The facilities authorized under this act shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities. If the Secretary of Administration, after consultation with the Secretary of Correction, finds that the delivery of prison facilities must be expedited for good cause, the Office of State Construction of the Department of Administration shall be exempt from the following statutes and rules implementing those statutes, to the extent necessary to expedite delivery: G.S. 143-135.26, 143-128, 143-129, 143-131, 143-132, 143-134, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(g), and 143-408.1 through 143-408.7.

Prior to exercising the exemptions allowable under this section, the Secretary of Administration shall give reasonable notice in writing of the Department's intent to exercise the exemptions to the Speaker of the House, the President Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Corrections Oversight Committee, and the Fiscal Research Division. The written notice shall contain at least the following information: (i) the specific statutory requirement or requirements from which the Department intends to exempt itself; (ii) the reason the exemption is necessary to expedite delivery of prison facilities; (iii) the way in which the Department anticipates the exemption will expedite the delivery of prison facilities; and (iv) a brief summary of the proposed contract for the project which is to be exempted.

The Office of State Construction of the Department of Administration shall have a verifiable ten percent (10%) goal for participation by minority and women-owned businesses. All contracts for the design, construction, or demolition of prison facilities shall include a penalty for failure to complete the work by a specified date.

The Office of State Construction of the Department of Administration shall involve the Department of Correction in all aspects of the projects to the extent that such involvement relates to the Department's program needs and to its responsibility for the care of the prison population.

(c) The Office of State Construction of the Department of Administration shall provide quarterly reports to the Chairs of the Appropriations Committee and the Base Budget Committee in the Senate, the Chairs of the Appropriations Committee in the House, the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Legislative Corrections Oversight Committee, and the Fiscal Research Division as to any changes in projects and allocations made under this act. The report shall include any changes in the projects and allocations made pursuant to this act,

information on which contractors have been selected, what contracts have been entered into, the projected and actual occupancy dates of facilities contracted for, the number of beds to be constructed on each project, the location of each project, and the projected and actual cost of each project.

The Department of Insurance and the Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations on their involvement in the prison construction program.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Kiser
MATCHING FUNDS FOR FEDERAL PRISON CONSTRUCTION FUNDS

Sec. 27.10A. Appropriations made in this act to the Office of State Construction of the Department of Administration for construction of new prison beds, excluding the sum of seven million five hundred thousand dollars (\$7,500,000) to be used for the design and preliminary site work, are to match federal funds available for prison construction in the 1995 or 1996 federal fiscal year or subsequent federal fiscal years. If the federal match is not made available by January 1, 1996, these State funds shall be made available to the Office of State Construction of the Department of Administration for construction of new prison beds, segregation units, and support buildings and systems as specified in this act.

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

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

UNNEEDED PRISON MATCH FUNDS

Sec. 27.10A1. To the extent that the Director of the Budget determines that State funds appropriated in this act for construction of new prison beds are not needed to match federal funds for the 1995-97 fiscal biennium, the Director of the Budget may transfer the following amounts from these funds for the following purposes only:

- (1) Up to \$15,000,000 to the Department of Human Resources for compliance with court orders in the Willie M. and Thomas S. lawsuits;
- (2) Up to \$2,000,000 to the Department of Human Resources as a State match for federal funds for the implementation of the Electronic Benefits Program for food stamps only;
- (3) Up to \$6,000,000 to the Department of Environment, health, and Natural Resources for water and sewer demonstration projects.
- (4) Up to \$3,277,000 to the Department of Transportation as a State match for federal funds for the North Carolina Global TransPark Education and Training Center;
- (5) Up to \$1,000,000 to the Department of Commerce for the Economic Development Information System;

- (6) Up to \$3,000,000 to the Department of Commerce for the Industrial Recruitment Competitive Fund;
- (7) Up to \$6,000,000 to the Department of Justice for the construction of the SBI Operations Building;
- (8) Funds for a portion of the nonfederal match for the beach renourishment projects at Kure Beach and Long Beach;
- (9) Up to \$5,000,000 to the Department of Human Resources as a State match for federal funds for the implementation of the North Carolina Access Network (NC CAN) program; and
- (10) Any remaining funds, up to \$50,000,000 for the Reserve for Education Purposes in the Office of State Budget and Management.

The Director of the Budget shall give priority to these purposes in the order in which they appear in this section.

The Office of State Budget and Management shall report the receipt of federal matching funds for new State prison construction for the 1995-96 fiscal year to the Joint Legislative Commission on Governmental Operations and shall report its proposed transfers, if any, in accordance with the priorities required by this section.

Requested by: Senator Ballance

REVERSION OF CERTAIN INSURANCE SETTLEMENT PROCEEDS

Sec. 27.10B. Section 22(b) of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(b) Any funds received by the Department of Justice in settlement of insurance claims arising from damage to the Blue Bell building at the North Carolina Justice Academy shall be expended by the Department for replacement of the building and for no other purpose. ~~If any appropriation is made to the Department for replacement of the Blue Bell Building, then any~~ Any funds received by the Department in excess of one million one hundred thousand dollars (\$1,100,000) as insurance settlement proceeds shall revert to the General Fund."

Requested by: Representatives Holmes, Creech, Esposito, Gardner, Hayes, Nye, Senators Plyler, Perdue, Odom, Martin of Guilford, Forrester

REALLOCATION AND RENOVATION OF FACILITY FOR A JUVENILE DETENTION CENTER

Sec. 27.11C. The Richmond Correctional Center is reallocated from the Department of Correction to the Department of Human Resources. Funds in the Reserve for Repairs and Renovations for the 1995-96 fiscal year may be allocated to the Department of Human Resources to repair and renovate the facility to serve as a detention center for juveniles bound over to Superior Court and awaiting trial as adults.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Sec. 27.12. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1995-96 fiscal year, the sum of one

million eight hundred sixty-five thousand dollars (\$1,865,000) shall be used for water resources development projects and the sum of two hundred thousand dollars (\$200,000) shall be used for small watershed projects. The Department shall allocate funds for the following projects whose estimated costs are as indicated:

(1)	Wilmington Harbor Deepening Study	\$374,000
(2)	Jordan Lake Water Supply Repayment	130,000
(3)	Wilmington Harbor 38-ft. Navigation Maintenance Dredging	500,000
(4)	Aquatic Plant Control (Statewide) includes Lake Gaston	150,000
(5)	Rollinson Channel Maintenance, Dare County	160,000
(6)	Wilmington Harbor Channel Widening	72,000
(7)	State-Local Projects	199,000
(8)	Repayment to New Hanover County Spoil Disposal Area	130,000
(9)	Dare County Beaches Feasibility Study	100,000
(10)	Planning Assistance to Communities	50,000
(11)	Limestone Creek Watershed Project Duplin County	40,000
(12)	Deep Creek Watershed Project Yadkin County	160,000
	Total	\$2,065,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1995-96 fiscal year, or if the projects listed in subsection (a) 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 1995-96.
- (3) State-local Water Resources Development Projects.
- (4) Soil Conservation Projects whose schedules have advanced and require State matching funds in fiscal year 1995-96.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1996-97 fiscal year.

(c) 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 listed in this section.
- (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.

Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito

STATE PARKS CAPITAL

Sec. 27.13. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1995-96 fiscal year for capital improvements and land acquisition in the State Parks System, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects and acquiring land.

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

REPAIRS AND RENOVATIONS OF STATE PARK FACILITIES

Sec. 27.13A. Funds in the amount of ten million dollars (\$10,000,000) appropriated in this act for the State Parks System may be used for repairs and renovations of State park facilities. Funds allocated in Section 5.3 of Chapter 324 of the

1995 Session Laws to the Office of State Budget and Management for the Repairs and Renovations Fund shall not be used for such purposes.

Requested by: Senator Martin of Pitt

REPAIRS AND RENOVATIONS FUNDS FOR REPAIR OF UNSAFE BUILDINGS

Sec. 27.14. Notwithstanding any other provision of law, funds in the Reserve for Repairs and Renovations for the 1995-96 fiscal year may be allocated to the Department of Agriculture to repair any structure that the Department of Insurance declares is in violation of the State Building Code and is unsafe to the extent that occupancy may be denied.

Requested by: Senator Sherron

UNC SELF-LIQUIDATING PROJECTS AUTHORIZED

Sec. 27.15. (a) The purpose of this section is to authorize the construction by certain constituent institutions of The University of North Carolina and the University of North Carolina Hospitals at Chapel Hill, of the capital improvements projects listed in the act for the respective institutions, and authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, including patient receipts at the University of North Carolina Hospitals at Chapel Hill, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

(b) The capital improvements projects authorized by this section to be constructed and financed as provided in subsection (a) of this section are as follows:

1. Appalachian State University
Improvements to Student Residence Facilities \$ 3,697,600

2. East Carolina University
Dowdy-Ficklen Stadium Expansion \$11,183,800
Renovations and Addition to the Student Health Center \$ 3,048,800
Removal of Architectural Barriers \$13,805,300

3. North Carolina A & T State University
Student Union Renovation and Addition \$ 4,395,000

4. North Carolina Central University
Renovation of Track and Football Stadium \$ 2,835,000

5. North Carolina State University
Partners' II Building \$ 8,077,500
Partners' III Building (Engineering Corporate Building) \$10,311,700
Student Health Services Center \$ 7,104,500

6. The University of North Carolina at Asheville
180-Bed Residence Hall \$ 3,750,600

7. The University of North Carolina at Chapel Hill

	Addition to the Biological Sciences Research Center Building	\$ 9,374,000
	Residence Hall Video Network and Communications Wiring	\$ 4,000,500
	Printing Services Center	\$ 2,083,100
8.	The University of North Carolina at Charlotte 1000 Space Parking Deck	\$ 7,525,200
	Cameron Applied Research Center	\$ 4,876,100
9.	The University of North Carolina at Greensboro Baseball Stadium	\$ 3,759,100
10.	The University of North Carolina at Wilmington 200 Student Residence Hall	\$ 5,942,700
	Campus Recreation Facility	\$10,484,500
11.	Western Carolina University Renovation of Hinds University Center	\$ 4,250,000
12.	The University of North Carolina Hospitals at Chapel Hill North Carolina Children's Hospital, North Carolina Women's Hospital and Support Services - Phase II	\$59,970,800.

(c) At the request of The University of North Carolina Board of Governors and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the scope of or a change in the method of funding the project authorized by this section. In making a determination of whether to authorize a change in scope or funding, the Director of the Budget may consult with the Advisory Budget Commission. In no event may appropriations from the General Fund be used for a project authorized by this section.

Sec. 27.16. (a) The purpose of this section is to amend Section 2 of the 1993 Session Laws, Chapter 451, as it relates to the University of North Carolina at Greensboro by increasing the amount authorized for the McIver Street Parking Deck from five million seven hundred eight thousand six hundred dollars (\$5,708,600) to eight million forty-one thousand four hundred dollars (\$8,041,400).

(b) Section 2 of Chapter 451 of the 1993 Session Laws under the institutional subheading "6. The University of North Carolina at Greensboro" as indicated, and affecting only the project listed in this act is amended to read as follows:

"c. McIver Street Parking Deck \$8,041,400".

PART 28. GENERAL CAPITAL AND MISCELLANEOUS BUDGET PROVISIONS

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

PROCEDURES FOR DISBURSEMENT

Sec. 28. The appropriations made by the 1995 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 1995 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act.

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

RESERVE FOR ADVANCE PLANNING

Sec. 28.1. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Office of State Budget and Management shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

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

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 28.2. When each capital improvement project appropriated by the 1995 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a

project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

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

PROJECT COST INCREASE

Sec. 28.3. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

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

NEW PROJECT AUTHORIZATION

Sec. 28.4. Upon the request of the administration of any State agency, department, or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Provided, however, that if the Director of the Budget authorizes the construction of such a capital improvement project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

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

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Sec. 28.5. Funds that become available by gifts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects,

upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

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

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 28.6. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 1995 General Assembly may be expended only for specific projects set out by the 1995 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 1995 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

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

EXECUTIVE BUDGET ACT APPLIES

Sec. 28.7. 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: Representatives Holmes, Creech, Esposito, Senators Plyler, Perdue, Odom

COMMITTEE REPORT

Sec. 28.8. (a) The House and Senate Conference Report on Expansion Budget/Capital Budget, dated July 28, 1995, which was distributed in the Senate and 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.

(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 1995-97 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the

Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget 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) Negative reserves set out in the submitted budget were deleted and the totals were increased accordingly.
- (2) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Senate and House Conference Report on the Continuation Budget, dated June 21, 1995.
- (3) Transfers of funds supporting programs were made in accordance with the House and Senate Conference Report on the Continuation Budget, dated June 21, 1995.
- (4) The expansion budget items were added in accordance with the House and Senate Conference Report on Expansion Budget/Capital Budget, dated July 28, 1995. Some of those expansion budget items were in the budget submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission.

Expansion budget items that were funded from new receipts are included in the budget enacted by the General Assembly with program-level detail.

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: Representatives Holmes, Creech, Esposito, Senators Plyler, Perdue, Odom

MOST TEXT APPLIES ONLY TO 1995-97

Sec. 28.9. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1995-97 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1995-97 fiscal biennium.

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

1995-97 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Sec. 28.10. Except as amended by this act, the provisions of Chapter 284 of the 1995 Session Laws remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1995-97 fiscal biennium in Chapter 324 of the 1995 Session Laws, 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.

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

EFFECT OF HEADINGS

Sec. 28.11. The headings to the titles, 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.

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

SEVERABILITY CLAUSE

Sec. 28.12. 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: Representatives Holmes, Creech, Esposito, Senators Plyler, Perdue, Odom

EFFECTIVE DATE

Sec. 28.13. Except as otherwise provided, this act becomes effective July 1, 1995.

In the General Assembly read three times and ratified this the 28th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives