A BILL TO BE ENTITLED
AN ACT TO PHASE-IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL.

Whereas, the 1999 General Assembly, Regular Session 2000, established the Joint Legislative Oversight Committee ("Committee") on Mental Health, Developmental Disabilities, and Substance Abuse Services; and

Whereas, the Committee was directed to develop a Plan for Mental Health System Reform; and

Whereas, the General Assembly expressed the intent that the Plan be fully implemented not later than July 1, 2005; and

Whereas, the General Assembly directed the Committee to "Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels"; and

Whereas, the Committee reviewed the governance, structure, and financing of the current mental health system and reported its findings and recommendations to the 2001 General Assembly for legislative action; Now, therefore,

The General Assembly of North Carolina enacts:

PART 1. MENTAL HEALTH SYSTEM REFORM

SECTION 1.1. G.S. 122C-2 reads as rewritten:

"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health, developmental disabilities, and substance abuse problems services in ways consistent with the dignity, rights, and responsibilities of all North Carolina citizens. Within available resources it is the obligation of State and local government to provide mental health, developmental disabilities, and substance abuse services to eliminate, reduce, or
prevent the disabling effects of mental illness, developmental disabilities, and substance abuse through a service delivery system designed to meet the needs of clients in the least restrictive available setting, if the least restrictive setting is therapeutically most appropriate, and to maximize their quality of life. It is further the obligation of the State and local government to provide community-based services when such services are appropriate, unopposed by the affected individuals, and can be reasonably accommodated within available resources and taking into account the needs of other persons for mental health, developmental disabilities, and substance abuse services.

State and local governments shall develop and maintain a unified system of services centered in area-local government programs. The public service system will strive to provide a continuum of services for clients while considering the availability of services in the private sector. State and local government shall ensure within available resources that the following core services are available:

1. Screening, assessment, and referral.
2. Emergency services.
3. Case support.
4. Prevention, consultation, and education.

The State shall provide within available resources services to targeted populations, except that the State and counties shall provide matching funds for entitlement program services as required by law.

The furnishing of services to implement the policy of this section requires the cooperation and financial assistance of counties, the State, and the federal government."

SECTION 1.2.(a) G.S. 122C-3 is amended by adding the following new subdivisions in alphabetical order to read:

'(1) 'Administering county' means a county that operates a single-county program or the county that is responsible for the (i) budget and fiscal control, and (ii) the appointment of a program director, for a multi-county program.
(2) 'Core services' are those services that are basic, essential, and universally available to all individuals.
(3) 'Local program' means a program certified by the Secretary to provide mental health, developmental disabilities, and substance abuse services.
(4) 'Local program board' or 'program board' means the local program board established pursuant to Article 3B of this Chapter.
(5) 'Multicounty program' means a local program that serves a multi-county service area.
(6) 'Program director' means the individual employed pursuant to Article 3B of this Chapter to administer the local program.
(7) 'Single-county program' means a local program operated as a department of the county and that serves a single-county service area.
(8) 'State' or 'Local' Ombudsman means the individual carrying out the duties of the State or Local Quality of Care Ombudsman Office in accordance with Article 1A of this Chapter.
'State plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

'Targeted population' means those individuals who are given service priority under the State Plan."

SECTION 1.2.(b) G.S. 122C-3(14) is amended by adding a new sub-subdivision to read:

"(14) 'Facility' means any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes:

i. A 'local program facility', which is a facility that is operated by or under contract with an administering county. A facility that is providing services under contract with the administering county is a local program facility for purposes of the contracted services only. Local program facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not a local program facility."

SECTION 1.2.(c) G.S. 122C-3(14)g. reads as rewritten:

"g. A '24-hour facility', which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter; and"

SECTION 1.2.(d) G.S. 122C-3(14)h. reads as rewritten:

"h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers; and"

SECTION 1.3.(a) Article 1 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-6. Scope of Chapter."

Except for Articles 1A and 3B of this Chapter, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through an area authority. Except for Article 4 of this Chapter, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a local program. Whenever the term 'area authority' or 'area program' is used in this Chapter other than in Article 4, the term shall be construed to include the term 'local program' as defined in this Chapter. Whenever the term 'area facility' is used in this Chapter other than in Article 4, the term shall be construed to include the term 'local program facility' as defined in G.S. 122C-3(14)i."

SECTION 1.3.(b) G.S. 122C-64 reads as rewritten:

"§ 122C-64. Human rights committees."

Human rights committees responsible for protecting the rights of clients shall be established at each State facility and may be established for area authorities.
and local programs. The Commission shall adopt rules for the establishment of committees. These rules shall include the composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area authorities, and by the administering county for local programs."

SECTION 1.4. Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. Scope.

Except as otherwise explicitly provided in this Chapter, this Article does not apply to counties that provide mental health, developmental disabilities, and substance abuse services through a local program."

SECTION 1.5. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 3B.


"Part 1.

"Policy.

"§ 122C-83. Scope and policy.

(a) This Article applies to local programs certified by the Secretary to provide mental health, developmental disabilities, and substance abuse services.

(b) Within the public system of mental health, developmental disabilities, and substance abuse services, there are both local program facilities and State facilities. A local program is responsible for and is the locus of coordination among public services for clients of its service area. To assure the most appropriate and efficient care of clients within the publicly supported service system, local programs are encouraged to develop and secure approval for a single portal of entry and exit policy for their service areas for mental health, and substance abuse services. Local programs shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities.

"Part 2.

"Administration.

"§ 122C-84. State and local system administration.

The Secretary shall administer and enforce the provisions of this Chapter and the rules of the Commission and shall operate State facilities. A program director shall administer the local program and shall enforce applicable State law and rules and county ordinances. The Secretary in cooperation with program directors and State facility directors shall provide for the coordination of services between local programs and State facilities.

"§ 122C-85. Powers and duties of the Secretary.

(a) The Secretary shall do all of the following:

(1) Develop a State Plan for mental health, developmental disabilities, and substance abuse services.
(2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.

(3) Establish a process and criteria for the submission, review, and approval or disapproval of business plans submitted by counties for the provision of mental health, developmental disabilities, and substance abuse services.

(4) Adopt rules specifying the content and format of business plans.

(5) Review business plans and upon approval of the business plan, certify the submitting local program to provide mental health, developmental disabilities, and substance abuse services.

(6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by local programs and their contracted providers with State and federal policy, law, and standards.

(7) Assist counties in the establishment and operation of community-based programs within the local program service area.

(8) Operate State facilities and adopt rules pertaining to their operation.

(9) Promote a unified system of services for the citizens of this State by coordinating services provided in State facilities and local program facilities.

(10) Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.

(11) Adopt rules to implement the appeal procedure authorized by G.S. 122C-100.16.

(12) Adopt rules for the establishment of single portal designation and approve an area as a single portal area.

(13) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter.

(14) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252.

(15) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse.

(16) Administer and enforce rules that are conditions of participation in federal or State financial aid.

(17) Carry out G.S. 122C-361.

(18) Monitor the fiscal and administrative practices of local programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by local programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting procedures, record keeping, documentation, and other matters pertaining to financial management.
and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.

(19) Provide technical assistance to counties in the development of local program business plans and other matters, as requested by the county.

(20) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.

(21) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.

(22) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to local programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.

(23) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-99 and G.S. 122C-100.

(b) The Secretary may do the following:

(1) Acquire by purchase or otherwise in the name of the Department equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs.

(2) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.

(3) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse.

(4) Provide technical assistance for the development and improvement of mental health, developmental disabilities, and substance abuse services.

(5) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description which shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget, Planning, and Management as determined by that office.

(6) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified.

(7) Enter agreements authorized by G.S. 122C-346.
Authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-100.28, notwithstanding the provisions of G.S. 126-18.

Contract with one or more private providers or other public service agencies to serve clients of a local program and reallocate local program funds to pay for services under the contract if the Secretary finds all of the following:

a. The county refuses or has failed to provide the services to clients within its service area in a manner that is at least adequate.

b. Clients within the local program area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another local program.

c. There is at least one private provider or public service agency within the county's service area, or within reasonable proximity to the service area, willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the county or counties administering the local program of the Secretary's intent to contract and shall provide the county or counties an opportunity to be heard.

Contract with one or more private providers or other public service agencies to serve clients from more than one local program and reallocate the funds of the applicable local programs to pay for services under the contract if the Secretary finds either that there is no local program available to act as the administrative entity under contract with the provider or that the administering local program refuses or has failed to properly manage and administer the contract with the contract provider and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the administering counties of the Secretary's intent to contract, and shall provide the administering counties an opportunity to be heard.

Require reports of client characteristics, staffing patterns, agency policies or activities, services, or specific financial data of the local program. The reports shall not identify individual clients of the local program unless specifically required by State law or by federal law or regulation or unless valid consent for the release has been given by the client or legally responsible person.

The Secretary shall conduct regularly scheduled monitoring and oversight of local programs. Monitoring and oversight shall include compliance with the local
program business plan, core administrative functions, fiscal, and administrative practices. Monitoring and oversight shall also address outcome measures, consumer satisfaction, human rights and client rights complaints, and adherence to best practices. The Secretary shall make findings and recommendations based on information and data collected pursuant to this section and shall report these findings and recommendations for improvement to the county commissioners of the administering county and the Local Ombudsman Office.

§ 122C-86. Cooperation between Secretary and other agencies.
(a) The Secretary shall cooperate with other State agencies to coordinate services for the treatment and habilitation of individuals who are mentally ill, developmentally disabled, or substance abusers. The Secretary shall also coordinate with these agencies to provide public education to promote a better understanding of mental illness, developmental disabilities, and substance abuse.
(b) The Secretary shall promote cooperation among local programs, State facilities, and local agencies to facilitate the provision of services to individuals who are mentally ill, developmentally disabled, or substance abusers.
(c) The Secretary shall cooperate with the State Board of Education and the Department of Juvenile Justice and Delinquency Prevention in coordinating the responsibilities of the Department of Health and Human Services, the State Board of Education, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Public Instruction for adolescent mental health and substance abuse programs. The Department of Health and Human Services, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in cooperation with the Department of Juvenile Justice and Delinquency Prevention, shall be responsible for intervention and treatment in nonschool-based programs. The State Board of Education and the Department of Public Instruction, in consultation with the Department of Juvenile Justice and Delinquency Prevention, shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs.
(d) The Secretary shall adopt rules to assure this coordination.

§ 122C-87. Powers and duties of the Commission.
The Commission shall have authority as provided by this Chapter, Chapters 90 and 148 of the General Statutes, and by G.S. 143B-147.

§ 122C-88. Powers and duties of counties.
(a) A county shall provide mental health, developmental disabilities, and substance abuse services.
(b) A county shall, in accordance with Article 3B of this Chapter, operate a single-county program or participate in the administration of a multicounty program. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.
(c) The governing unit of a local program is the board of county commissioners of the administering county. The governing unit of a local program may exercise all powers, duties, functions, rights, privileges, or immunities conferred on the local program.
(d) Local program administration and services must comply with applicable federal law and State law, policy, standards, and rules.

(e) A county may operate a local program as a single county program or, pursuant to Article 20 of Chapter 160A of the General Statutes, may enter into an interlocal agreement with one or more other counties for the administration of a multi-county program. An interlocal agreement that provides for administration of a multi-county program shall designate a single administering county that shall:

1. Adopt and administer the local program budget in accordance with Chapter 159 of the General Statutes.
2. Establish and maintain the accounting system, control expenditures, manage cash and other assets, and prepare financial reports for the local program in accordance with Chapter 159 of the General Statutes.
3. Appoint a program director to carry out the provisions of G.S. 122C-95 and other applicable provisions of this Chapter.

The interlocal agreement may provide for the administering county to carry out other functions necessary to the administration and operation of the multicounty program.

(f) Every county, either singly or jointly with one or more other counties, shall develop a business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services through a local program. All business plans shall designate an administering county. The business plan shall comply with the requirements of G.S. 122C-89. A business plan shall provide detailed information on how the county will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating local program effectiveness. The business plan shall be in effect for at least three State fiscal years. The administering county shall submit the single-county or multicounty local program business plan to the Secretary for review and approval. If the Secretary finds that the business plan complies with State law and standards adopted by the Secretary, the Secretary shall certify the local program. An administering county may amend the business plan subject to the approval of the Secretary. Amendments to the business plan for a multicounty program shall be subject to the approval of the participating counties.

(g) In addition to the powers and duties authorized in subsections (a) and (b) of this section, an administering county shall:

1. Ensure the provision of services to clients of the program service area, including clients committed to the custody of the Department of Juvenile Justice and Delinquency Prevention.
2. Coordinate with the Secretary, the Department of Juvenile Justice and Delinquency Prevention, and local education agencies within the local program service area, the provision of services to clients through local program and State facilities.
3. Assure that local program services, provided directly or under contract, meet the requirements of applicable State and federal law, and within available resources, are of the highest quality possible.
§ 122C-88A. Appropriation and allocation of funds by administering counties and cities.

(a) Counties shall and cities may appropriate funds for the support of programs that serve the local program area whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties shall and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(b) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of a local program because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the local program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the local program.

(c) The board or boards of county commissioners that establish the local program may allocate funds not otherwise restricted by law, in addition to the funds allocated for the operation of the local program, for the purpose of paying legal defense, judgments, and settlements as authorized under G.S. 160A-167.

§ 122C-89. County business plan required; content; process; certification.

(a) Every county shall develop a business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services through local programs. Counties administering and providing services through a multicounty program shall jointly develop one business plan for the multicounty program. Certification of the local program shall be based on sufficiency of the business plan for that local program, as determined by the Secretary. Business plans shall include the following:

(1) Description of how the following core administrative functions will be carried out:

a. Planning. -- Local services plans that identify service gaps and methods for filling the gaps, ensure the availability of an array of services based on consumer needs, provision of core services, and prescribing the efficient and effective use of all funds for targeted services. Local planning should be an open process involving key stakeholders in developing the plan.

b. Provider network development. -- Ensuring available and qualified providers to deliver services based on the local plan. Development of new providers and monitoring provider performance and service outcomes. Provider network development shall address consumer choice and fair competition.
c. Service management. -- Management of all services on the continuum, including use of State hospitals/facilities bed days, utilization management, and quality management. If services are provided directly by the local program, then the plan shall indicate what efforts will be made to ensure consumer choice and fair competition in the marketplace.

d. Services management. -- Managing multiple services provided, including necessary interventions to assure the appropriate level and intensity of services are provided.

e. Financial management and accountability. -- Carrying out business functions in an efficient and effective manner, cost-sharing, and managing resources dedicated to the public system.

f. Service monitoring and oversight. -- Assuring that services provided to consumers and families meet State outcome standards, and ensure quality performance by providers in the network.

g. Evaluation. -- Self-evaluation based on statewide outcome standards, and participation in independent evaluation studies.

h. Collaboration. -- Collaborating with other local service systems in ensuring access and coordination of services at the local level. Collaborating with other local programs and the State in planning and delivery of services.

i. Access. – Assuring reasonable access to core and targeted services. As used in this paragraph, 'reasonable access' means that there shall be not less than what is currently available in the service delivery system.

(2) Description of how the following will be addressed:

a. Reasonable administrative costs, and costs or savings anticipated from consolidation.

b. Proposed reinvestment of savings toward direct services.

c. Minimum population base of 200,000 or a minimum of five counties in the service area of the multicounty program.

d. Based on rules adopted by the Secretary, method for calculating county resources to reflect cash and in-kind contributions of the county.

e. Financial accountability and oversight by administering county in accordance with State and federal law.

f. The composition and appointment of the local program board.

g. The population base of the counties to be served by the multicounty local program.

h. Allocation of liability in multicounty programs, including the purchase of liability insurance by one or more of the participating counties.
i. Procedures for the informal resolution of disputes prior to filing of an appeal with the State Appeals Panel under G.S. 122C-100.17, et seq.

j. Use of local funds for the alteration, improvement, and rehabilitation of real property as authorized by and in accordance with G.S. 122C-100.11(e).

(3) Minimum commitment of at least three years.

(4) A memorandum of agreement addressing local service implementation plans, payments for services purchased by the State, local program activities supported by grants, and budget formatting and reporting.

(b) The county or counties proposing the business plan shall submit it to the Secretary for review and certification. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the local program as a single-county program or a multicounty program. The Secretary shall review the business plan within 30 days of receipt of the plan. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county and shall indicate in the notification the changes that need to be made in order for the proposed local program to be certified. The submitting county shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues.

§ 122C-89A. Status of local program; status of consolidated human services agency.

(a) A single-county program is a department of the county.

(b) A multicounty program is a department of the administering county for the purposes of personnel administration of employees appointed by the local program director and Chapter 159 of the General Statutes and such other purposes as may be agreed to by participating counties.

(c) A consolidated human services agency is a department of the county.

§ 122C-90. Local program boards.

Every local program shall have a local program board to conduct planning and other activities related to the provision of mental health, developmental disabilities, and substance abuse services in the local program services area. The local program board shall:

(1) Engage in comprehensive services planning and, in consultation with the local program director, develop local service implementation plans.

(2) Conduct reviews of local program services with the assistance of the Local Ombudsman, assess the quality and availability of services, and advise local officials through the Local Ombudsman.

(3) Plan and recommend a local program budget.

(4) With the assistance of the Local Ombudsman, submit to the county board of commissioners for the administering county periodic reports that assess the quality and availability of services, and progress in
implementing local service implementation plans, including service
goals and outcomes.
(5) Perform public relations and community advocacy functions.
(6) Recommend the creation of local program services.

§ 122C-91. Structure of local program board.
(a) A local program board shall have no fewer than 11 and no more than 15
members. The size of the board may be changed from time to time as follows:
(1) In a single-county program, by the board of county commissioners.
(2) In a multicounty program, by agreement of the boards of county
commissioners of each of the counties in the local program. The
agreement shall be evidenced by concurrent resolutions adopted by the
affected boards of county commissioners.
(b) In a single-county program, the board of county commissioners shall appoint
the members of the board who may be removed with or without cause.
(c) In a multicounty program, each board of county commissioners within the
local program area shall appoint members of the program board. A member may be
removed, with or without cause, by the initial appointing authority.
(d) If a member of the program board does not attend three scheduled meetings
without justifiable excuse within a 12-month period, then the original appointing
authority for that member shall declare vacant the office of that member.
(e) The county commissioners authorized to make appointments to the program
board shall appoint new members to the program board to fill vacancies occurring on
the board before the end of the appointed term of office. These appointments are for the
remainder of the unexpired term of office.
(f) Whenever a vacancy occurs on the board, it shall be filled within 120 days.
(g) At least fifty percent (50%) of the members of the program board shall
represent the following:
(1) A physician licensed under Chapter 90 of the General Statutes to
practice medicine in North Carolina who, when possible, is certified as
having completed a residency in psychiatry.
(2) A professional representative from the fields either of psychology,
social work, nursing, or religion.
(3) An individual, either a primary consumer or an individual from a
citizens' organization composed primarily of consumers or their family
members, representing the interests of individuals with:
   a. Mental illness; and
   b. Developmental disabilities.
(4) A primary consumer presently and openly in recovery representing the
interests of individuals suffering from substance abuse.
(5) A family consumer representing the interests of individuals:
   a. With mental illness;
   b. With developmental disabilities; and
   c. Who abuse substances.
The board of county commissioners may elect to appoint a member of the local program board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

The terms of the members on the program board shall be for four years, except that upon the initial formation of a program board one-fourth shall be appointed for one year, one fourth for two years, one-fourth for three years, and all remaining members for four years.

§ 122C-92. Organization of local program board.
(a) The program board shall meet at least six times per year.
(b) Meetings shall be called by the program board chairman or by three or more members of the program board after notifying the program board chairman in writing.
(c) Members of the program board elect the program board's chairman. The term of office of the program board chairman shall be one year.

§ 122C-93. Local program board members' training.
The administering county shall ensure that all members of a local program board receive orientation and training on board members' responsibilities.

§ 122C-94. Compensation of program board members.
(a) Local program board members may receive as compensation for their services per diem and a subsistence allowance for each day during which they are engaged in the official business of the program board. The amount of the per diem and subsistence allowances shall be established by the administering county, and the amounts shall not exceed those authorized by G.S. 138-5 for State boards.
(b) Local program board members may be reimbursed for all necessary travel expenses and registration fees in amounts fixed by the program board.

§ 122C-95. Program director.
The program director is the administrative head of the local program and is an employee of the administering county. The program director shall be appointed by and serve at the pleasure of the county manager of the administering county. The program director shall report directly to the county manager of the administering county. The program director shall:
(1) With the county manager's approval, appoint and supervise local program staff who are employees of the administering county.
(2) With the agreement of participating counties in a multicounty program, appoint and supervise other local program staff.
(3) Administer local program services.
(4) Plan the budget of the local program.
(5) Advise the board of county commissioners of the administering county through the county manager.
(6) Act as a liaison between the local program and the State.
(7) Implement the policies and programs of the local program in compliance with rules of the Commission and the Secretary.

§ 122C-96. Public guardians.
The officers and employees of the Division, or any successor agency, and the program director or any officer or employee of a local program designated by the local
program board, or any officer or employee of any facility designated by the local
program board, may, if they are a disinterested public agent as defined by G.S. 35A-
1202(4), serve as guardians for adults adjudicated incompetent under the provisions of
Subchapter I of Chapter 35A of the General Statutes, and they shall so act if ordered to
serve in that capacity by the clerk of superior court having jurisdiction of a proceeding
brought under that Subchapter. Bond shall be required or purchased as provided by G.S.
35A-1239.

"§ 122C-97. Other agency responsibility.

Notwithstanding the provisions of G.S. 122C-85(a)(15), 122C-90(1), 122C-100.2,
and 122C-100.3, other agencies of the Department, other State agencies, and other local
agencies shall continue responsibility for services they provide for persons with
developmental disabilities.

"§ 122C-98. County reimbursement to State for disallowed expenditures.

Any funds or part thereof of a local program that are transferred by the local
program to any entity including a firm, partnership, corporation, company, association,
joint stock association, agency, or nonprofit private foundation shall be subject to
reimbursement by the local program to the State when expenditures of the local
program are disallowed pursuant to a State or federal audit.

"§ 122C-99. Local program funding suspended.

(a) If the Secretary determines that a local program is not providing minimally
adequate services, in accordance with rules adopted by the Secretary, to persons in need
in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary,
after providing written notification of the Secretary's intent to the local program board
and the administering county, and after providing the local program an opportunity to be
heard, may withhold funding for the particular service or services in question from the
local program and ensure the provision of these services through contracts with public
or private agencies or by direct operation by the Department.

(b) Upon suspension of funding, the Department shall, in conjunction with the
local program, develop and implement a corrective plan of action and provide
notification to the local program board and the administering county of the plan. The
Department shall also keep the county board of commissioners of the administering
county and the local program board informed of any ongoing concerns or problems with
the local program's finances or delivery of services.

(c) The notice requirements of this section apply to the board of county
commissioners of each of the counties participating in a multicounty local program.

"§ 122C-100. Local program failure to provide services; State assumption of
service delivery.

At any time that the Secretary determines that a local program is not providing
minimally adequate services, in accordance with rules adopted by the Secretary, to
persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so,
the Secretary, after providing written notification of the Secretary's intent to the board of
county commissioners of the administering county and to the local program board, and
providing the local program an opportunity to be heard, may assume control of the
particular service in question or of the local program and appoint an administrator to
exercise the powers assumed. This assumption of control shall have the effect of
divesting the local program of its powers in G.S. 122C-88 and all other service delivery
powers conferred in the local program by law as they pertain to this service. County
funding of the local program shall continue when the State has assumed control of a
local program service area or of the local program. At no time after the State has
assumed this control shall a county withdraw funds previously obligated or appropriated
to the local program.

Upon assumption of control of service delivery, the Department shall, in conjunction
with the local program, develop and implement a corrective plan of action and provide
notification to the local program board of the plan. The Department shall also keep the
county board of commissioners of the administering county and the local program board
informed of any ongoing concerns or problems with the local program's delivery of
services.

§ 122C-100.1. Local program caretakers appointed.

In the event that a local program fails to comply with the corrective plan of action
required pursuant to G.S. 122C-99 when funding is suspended, or pursuant to G.S.
122C-100 when the State assumes control of service delivery, the Secretary, after
providing written notification of the Secretary's intent to the local program board, shall
appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the program director and
of the local program board 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 local program by law. County funding of the local
program shall continue when the State has assumed control of the financial affairs of the
local program. At no time after the State has assumed this control shall a county
withdraw funds previously obligated or appropriated to the local program. The caretaker
administrator and the caretaker board shall perform all of these powers and duties. The
Secretary may terminate the program 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 local program.

"Part 3.

"Consolidated Human Services.

§ 122C-100.2. Consolidated human services board; human services director.

(a) Except as otherwise provided by this section and subject to any limitations
that may be imposed by the board of county commissioners under G.S. 153A-77, a
consolidated human services agency shall have the responsibility and authority set forth
in G.S. 122C-88 to carry out the programs established in this Chapter in conformity
with the rules and regulations of the Department and under the supervision of the
Secretary in the same manner as an administering county. In addition to the powers
conferred by G.S. 153A-77(d), a consolidated human services board shall have all the
powers and duties of the governing unit of a local program as provided by G.S. 122C-88, except that the consolidated human services board may not:

(1) Appoint the human services director.
(2) Transmit or present the budget for social services programs.
(3) Enter into contracts, including contracts to provide services to governmental or private entities, unless specifically authorized to do so by the board of county commissioners in accordance with county contracting policies and procedures.

(b) In addition to the powers conferred by G.S. 153A-77(e), a human services director shall have all the powers and duties of a local program director as provided by G.S. 122C-95, except that the human services director may:

(1) Serve as the executive officer of the consolidated human services board only to the extent and in the manner authorized by the county manager.
(2) Appoint staff of the consolidated human services agency only upon the approval of the county manager.

The human services director serves as an employee of the county under the direct supervision of the county manager."

"Part 4, Service Delivery System.

"§ 122C-100.3. Composition of system."

Mental health, developmental disabilities, and substance abuse services of the public system of this State shall be delivered through local program facilities, State facilities, and the network of private providers.

"§ 122C-100.4. Single portal of entry and exit designation for mental health and substance abuse facilities."

(a) The public system should provide for a single portal of entry and exit policy for State and local program mental health and substance abuse facilities. In order to accomplish this objective, a local program desiring designation as a single portal area shall present to the Secretary a single portal of entry and exit plan approved by the county board of commissioners of the administering county. The decision as to whether to choose to submit a plan is in the discretion of the county in a single-county program, and with the county commissioners of each of the represented counties in a multicounty program, after weighing the policy goal stated in this subsection and in G.S. 122C-83. The single portal of entry and exit policy for State and local program mental health and substance abuse facilities does not preclude those individuals who have the resources to pay for the cost of inpatient hospital care without the use of any (i) public funds appropriated to the local program or (ii) Medicaid funds from selecting a facility for treatment and care which is different from that designated by the local program in its single portal plan.

(b) In order for a single portal area to be designated, the single portal of entry and exit plan shall be subject to approval by the Secretary. Once an area is designated by the Secretary as a single portal area, any changes to the plan shall be subject to approval by the Secretary.
The plan shall include but not be limited to:

1. A specific listing of facilities to be covered by the single portal of entry and exit plan;
2. Procedures for review of individuals to be admitted to or discharged from State and local program facilities;
3. Procedures for shared responsibility when individuals are admitted directly to a State facility;
4. Procedures for treatment of mentally retarded individuals with mental illness who are committed to a 24-hour facility;
5. Evidence of incorporation of these plans within the contracts between the local program and the State facilities and with other public and private agencies as required in G.S. 122C-100.6;
6. Evidence of cooperative arrangements with local law enforcement, local courts, and the local medical society; and

Residents of a county in a designated single portal area who do not have the resources to pay for the cost of inpatient hospital care without the use of any (i) public funds appropriated to the local program or (ii) Medicaid funds shall be admitted to or discharged from State and local program facilities through the local program as described in the local program's single portal of entry and exit policy.

§ 122C-100.5. Single portal of entry and exit designation for public and private services for individuals with developmental disabilities.

(a) The public system shall, in cooperation with private providers, provide for a single portal of entry and exit policy for services for individuals with developmental disabilities. A local program shall present to the Secretary a single portal of entry and exit plan for services for individuals with developmental disabilities that has been approved by the county commissioners. Local programs are encouraged to use community interagency councils in the development and implementation of single portal of entry and exit policies. For purposes of this section, services for individuals with developmental disabilities shall include 24-hour and day/night services for individuals with developmental disabilities operated under the authority of this Chapter, G.S. 131D-2, Part A of Article 6 of Chapter 131E of the General Statutes, Article 7 of Chapter 110 of the General Statutes, rules of the Division of Vocational Rehabilitation Services, and rules of the Social Services Commission.

(b) In order for a single portal area to be designated, the single portal of entry and exit plan shall be subject to approval by the Secretary. Once an area is designated by the Secretary as a single portal area, any changes to the plan shall be subject to approval by the Secretary. However, an approved plan and designation as a single portal area shall remain in force pending approval of any changes.

(c) The plan shall include:

1. A specific listing of services for individuals with developmental disabilities to be covered by the single portal of entry and exit plan;
2. Procedures for review of individuals to be admitted to or discharged from services for individuals with developmental disabilities;
When the services described in subdivisions (7) and (8) of this subsection are not funded jointly, these services shall not be part of the plan prescribed in this subsection.

The local education agencies and the Division of Vocational Rehabilitation Services upon receipt of a written request shall notify annually the appropriate local program of the projected number of individuals with developmental disabilities needing day/night and 24-hour services who are not otherwise included in the plan.

"Part 5.

"Local Program Facilities.

§ 122C-100.6. Provision of services.

(a) An administering county shall contract with other public or private agencies, institutions, or resources for the provision of services. An administering county may provide services directly when other public or private providers are unavailable to meet service needs. When providing services directly, an administering county must ensure consumer choice and fair competition in accordance with rules adopted by the Secretary.

(b) All local program services provided directly or under contract shall meet the requirements of applicable State and federal law and the rules of the Commission and the Secretary. The Secretary may delay payments and, with written notification of cause, may reduce or deny payment of funds if a local program fails to meet these requirements.

(c) An administering county may contract with a health maintenance organization, certified and operating in accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for the local program, to provide mental health, developmental disabilities, or substance abuse services to enrollees in a health care plan provided by the health maintenance organization. The terms of the contract must meet the requirements of all applicable State statutes and rules of the Commission and Secretary governing both the provision of services by an area authority and the general and fiscal operation of a local program and the reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a federal or State law or rule of the Commission or the Secretary shall be void; however, the presence of any
void provision in that contract does not render void any other provision in that contract
which is not in conflict with a State statute or rule of the Commission or the Secretary.
Subject to approval by the Secretary and pending the timely reimbursement of the
 contractual charges, the local program may expend funds for costs that may be incurred
by the local program as a result of providing the additional services under a contractual
agreement with a health maintenance organization.

§ 122C-100.7. Contract for services.
(a) When an administering county contracts with persons for the provision of
services, the local program shall assure that these contracted services meet the
requirements of applicable State statutes and standards and the rules of the Commission
and the Secretary. Terms of the contract shall require the local program to monitor the
contract to assure that rules and State statutes and standards are met. The Secretary shall
monitor contracted services to assure that rules and State statutes and standards are met.
(b) When the administering county contracts for services, it may provide funds to
purchase liability insurance, to provide legal representation, and to pay any claim with
respect to liability for acts, omissions, or decisions by members of the boards or
employees of the persons with whom the administering county contracts. These acts,
 omissions, and decisions shall be ones that arise out of the performance of the contract
and may not result from actual fraud, corruption, or actual malice on the part of the
board members or employees.

§ 122C-100.8. Substance abuse services for those convicted of driving while
impaired or driving while less than 21 years old after consuming alcohol
or drugs.
(a) Services. – A local program shall provide, directly or by contract, the
substance abuse services needed by a person to obtain a certificate of completion
required under G.S. 20-17.6 as a condition for the restoration of a drivers license. A
person may obtain the required services from a local program facility, from a private
facility that has complied with this subsection, or, with the approval of the Department,
from an agency that is located in another state. Before a private facility located in this
State provides the substance abuse services needed by a person to obtain a certificate of
completion, the facility shall notify both the designated facility for the local program
service area in which it is located and the Department of its intent to provide the
services and shall agree to comply with the laws and rules concerning these services that
apply to local program facilities.
(b) Assessments. – To conduct a substance abuse assessment, a facility shall give
a client a standardized test approved by the Department to determine chemical
dependency and shall conduct a clinical interview with the client. Based on the
assessment, the facility shall recommend that the client either attend an alcohol and drug
education traffic (ADET) school or obtain treatment. A recommendation shall be
reviewed and signed by a certified alcoholism, drug abuse, or substance abuse
counselor, as defined by the Commission, a Certified Substance Abuse Counselor, or by
a physician certified by the American Society of Addiction Medicine (ASAM).
(c) School or Treatment. – Attendance at an ADET school is required if none of the following applies and completion of a treatment program is required if any of the following applies:

1. The person took a chemical test at the time of the offense that caused the person's license to be revoked, and the test revealed that the person had an alcohol concentration at any relevant time after driving of at least 0.15.

2. The person has a prior conviction of an offense involving impaired driving.

3. The substance abuse assessment identifies a substance abuse disability.

(d) Standards. – An ADET school shall offer the curriculum established by the Commission and shall comply with the rules adopted by the Commission. A substance abuse treatment program offered to a person who needs the program to obtain a certificate of completion shall comply with the rules adopted by the Commission.

(e) Certificate of Completion. – Any facility that issues a certificate of completion shall forward the original certificate of completion to the Department. The Department shall review the certificate of completion for accuracy and completeness. If the Department finds the certificate of completion to be accurate and complete, the Department shall forward it to the Division of Motor Vehicles of the Department of Transportation. If the Department finds the certificate of completion is not accurate or complete, the Department shall return the certificate of completion to the area facility for appropriate action.

(f) Fees. – A person who has a substance abuse assessment conducted for the purpose of obtaining a certificate of completion shall pay to the assessing agency a fee of fifty dollars ($50.00). A person shall pay to a treatment facility or school a fee of seventy-five dollars ($75.00). If the defendant is treated by a local program facility, G.S. 122C-100.11 applies after receipt of the seventy-five dollar ($75.00) fee.

A facility that provides to a person who is required to obtain a certificate of completion a substance abuse assessment, an ADET school, or a substance abuse treatment program may require the person to pay a fee required by this subsection before it issues a certificate of completion. As stated in G.S. 122C-100.11, however, a local program facility may not deny a service to a person because the person is unable to pay.

A county shall remit to the Department five percent (5%) of each fee paid to the area facility under this subsection by a person who attends an ADET school conducted by the local program facility. The Department may use amounts remitted to it under this subsection only to support, evaluate, and administer ADET schools.

(g) Out-of-State Services. – A person may obtain a substance abuse service needed to obtain a certificate of completion from a provider located in another state if the service offered by that provider is substantially similar to the service offered by a provider located in this State. A person who obtains a service from a provider located in another state is responsible for paying any fees imposed by the provider.

(h) Rules. – The Commission may adopt rules to implement this section. In developing rules for determining when a person needs to be placed in a substance abuse
treatment program, the Commission shall consider diagnostic criteria such as those contained in the most recent revision of the Diagnostic and Statistical Manual or those used by the American Society of Addiction Medicine (ASAM).

(i) Report. – The Department shall submit an annual report on substance abuse assessments to the Joint Legislative Commission on Governmental Operations. The report is due by February 1. Each facility that provides services needed by a person to obtain a certificate of completion shall file an annual report with the Department by October 1 that contains the information the Department needs to compile the report the Department is required to submit under this section.

The report submitted to the Joint Legislative Commission on Governmental Operations shall include all of the following information and any other information requested by that Commission:

(1) The number of persons required to obtain a certificate of completion during the previous fiscal year as a condition of restoring the person's drivers license under G.S. 20-17.6.

(2) The number of substance abuse assessments conducted during the previous fiscal year for the purpose of obtaining a certificate of completion.

(3) Of the number of assessments reported under subdivision (2) of this subsection, the number recommending attendance at an ADET school, the number recommending treatment, and, for those recommending treatment, the level of treatment recommended.

(4) Of the number of persons recommended for an ADET school or treatment under subdivision (3) of this subsection, the number who completed the school or treatment.

(5) The number of substance abuse assessments conducted by each facility and, of these assessments, the number that recommended attendance at an ADET school and the number that recommended treatment.

(6) The fees paid to a facility for providing services for persons to obtain a certificate of completion and the facility's costs in providing those services.

§ 122C-100.9. State Plan for mental health, developmental disabilities, and substance abuse services.

The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. The State Plan shall include the following:

(1) Vision and mission of the State Mental Health, Developmental Disabilities, and Substance Abuse Services system.

(2) Organizational structure of the Department and the Divisions of the Department responsible for managing and monitoring mental health, developmental disabilities, and substance abuse services.

(3) Protection of client rights and consumer involvement in planning and management of system services.
(4) Provision of services to targeted populations, including criteria for identifying targeted populations.

(5) Compliance with federal mandates in establishing service priorities in mental health, developmental disabilities, and substance abuse.

(6) Description of the core services that are available to all individuals in order to improve consumer access to mental health, developmental disabilities, and substance abuse services at the local level.

(7) A service plan that includes service standards and outcomes for core services and services for targeted populations, including methods for identifying and filling gaps in services, and a coordinated system of care.

(8) Strategies and schedules for implementing the service plan, including engagement of stakeholders in planning, coordinated Medicaid policy development, inter-system collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.

(9) A business plan to demonstrate efficient and effective resource management of the mental health, developmental disabilities, and substance abuse services system.

"§ 122C-100.10. Fee for service."
An administering county and its contractual agencies shall prepare fee schedules for services and shall make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party payment, except that individuals may not be charged for free services, as required in 'The Amendments to the Education of the Handicapped Act', P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. However, no individual may be refused services because of an inability to pay. All funds collected from fees from local program operated services shall be used for the fiscal operation or capital improvements of the local program's programs. The collection of fees by a local program may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue.

"§ 122C-100.11. Financing and title of local program property."
(a) Unless otherwise specified by the Secretary, State appropriations to local programs shall be used exclusively for the operating costs of the local program; provided, however:

(1) The Secretary may specify that designated State funds may be used by the local program (i) for the purchase, alteration, improvement, or rehabilitation of real estate to be used as a facility or (ii) in contracting with a private, nonprofit corporation or with another governmental entity that operates facilities for the mentally ill, developmentally disabled, or substance abusers and according to the terms of the
contract between the local program and the private, nonprofit
corporation or with the governmental entity, for the purchase,
alteration, improvement, rehabilitation of real estate or, to make a
lump-sum down payment or periodic payments on a real property
mortgage in the name of the private, nonprofit corporation or
governmental entity.

(2) Upon cessation of the use of the facility by the local program, if
operated by the local program, or upon termination, default, or
nonrenewal of the contract if operated by a contractual agency, the
Department shall be reimbursed in accordance with rules adopted by
the Secretary for the Department's participation in the purchase of the
facility.

(b) All real property purchased for use by the local program shall be provided by
local or federal funds unless otherwise allowed under subsection (a) of this section or by
specific capital funds appropriated by the General Assembly.
(c) Equipment necessary for the operation of the local program may be obtained
with local, State, federal, or donated funds or a combination of these.
(d) All local program funds shall be spent in accordance with the rules of the
Secretary. Failure to comply with the rules is grounds for the Secretary to stop
participation in the funding of the particular program. The Secretary may withdraw
funds from a specific program of services not being administered in accordance with an
approved plan and budget after written notice and subject to an appeal as provided by
G.S. 122C-100.16 and Chapter 150B of the General Statutes.
(e) An administering county, with the approval of the Secretary, may use local
funds for the alteration, improvement, and rehabilitation of real property owned by a
nonprofit corporation or by another governmental entity under contract with the
administering county and used or to be used as a facility.

§ 122C-100.12. Appropriations and allocations.
(a) Funds appropriated by the General Assembly for mental health,
developmental disabilities, and substance abuse services shall be allocated by the
Secretary to administering counties.
(b) When the General Assembly determines that it is necessary to appropriate
funds for a specific program or purpose, the Secretary shall determine whether
expenditure accounting, special reporting within earning from a broad fund, the local
program business plan, or some other mechanism allows the best accounting for the
funds.
(c) Funds that have been appropriated by the General Assembly for a specific
program or purpose shall be converted to a broad age/disability category at the
beginning of the second biennium following the appropriation, unless otherwise acted
upon by the General Assembly.

§ 122C-100.13. Responsibilities of those receiving appropriations.
(a) All resources allocated to and received by any administering county and used
for programs of mental health, developmental disabilities, substance abuse, or other
related services are subject to the conditions specified in this Article, the rules of the
Commission and the Secretary, and to the provisions of the local program business plan.

(b) If a local program fails to complete actions necessary for compliance with the
local program business plan, fails to file required reports within the time limit set by the
Secretary, or fails to comply with any other requirements specified in this Article, the
Secretary may:

(1) Delay payments; and
(2) With written notification of cause and subject to an appeal as provided
by G.S. 122C-100.14, reduce or deny payment of funds. Restoration of
funds upon compliance is within the discretion of the Secretary.

§ 122C-100.14. Appeal by local programs.

(a) The administering county may appeal to the Commission any action
regarding rules under the jurisdiction of the Commission or rules under the joint
jurisdiction of the Commission and the Secretary.

(b) The administering county may appeal to the Secretary any action regarding
rules under the jurisdiction of the Secretary.

(c) Appeals shall be conducted according to rules adopted by the Commission
and Secretary and in accordance with Chapter 150B of the General Statutes.

§ 122C-100.15. Dispute with local programs.

A local program shall establish written procedures for resolving disputes over
decisions of a local program that may be appealed to the State MH/DD/SA Appeals
Panel under G.S. 122C-100.19. The procedures shall be informal and shall provide an
opportunity for those who dispute the decision to present their position.

§ 122C-100.16. Appeal to State MH/DD/SA Appeals Panel.

(a) Definitions. – The following definitions apply in this section:

(1) 'Appeals panel' means the State MH/DD/SA Appeals Panel established
under this section.

(2) 'Client' means an individual who is admitted to or receiving services
from a local program facility, or who in the current or previous fiscal
year has received or applied to receive services from an area facility or
local program facility. 'Client' includes the client's personal
representative or designee.

(3) 'Contract' means a contract with a local program to provide services,
other than personal services, to clients and other recipients of services.

(4) 'Contractor' means a person who has a contract or who had a contract
during the current fiscal year.

(5) 'Former contractor' means a person who had a contract during the
previous fiscal year.

(b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The
Panel shall consist of three members appointed by the Secretary. The Secretary shall
determine the qualifications of the Panel members. Panel members serve at the pleasure
of the Secretary.

(c) Who May Appeal. – The following persons may appeal to the Appeals Panel
after having exhausted the appeals process at the appropriate local program:
(1) A contractor or a former contractor who claims that an administering county is not acting or has not acted within applicable State law or rules in imposing a particular requirement on the contractor on fulfillment of the contract;

(2) A contractor or a former contractor who claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the contract;

(3) A contractor or former contractor who claims that an administering county has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former contractor;

(4) A client or a person who was a client of the local program or an area authority in the previous fiscal year, or the client's or former client's representative, who claims that an administering county has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client by the administering county; and

(5) A person who claims that an administering county did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the local program and that the administering county's failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the Appeals Panel shall hear an appeal to the Panel. An appeal shall be filed with the Appeals Panel within the time required by the Secretary and shall be heard by the Appeals Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Appeals Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person who appeals to the Appeals Panel has the burden of proof. The Appeals Panel shall not stay a decision of a local program during an appeal to the Appeals Panel.

(e) Decision. – The Appeals Panel shall make a written decision on each appeal to the Appeals Panel within the time set by the Secretary. A decision may direct a contractor or a local program to take an action or to refrain from taking an action, but it shall not require a party to appeal to pay any amount except payment due under the contract. In making a decision, the Appeals Panel shall determine the course of action that best protects or benefits the clients of the local program. If a party to an appeal fails to comply with a decision of the Appeals Panel and the Secretary determines that the failure deprives clients of the local program of a type of needed service, the Secretary may use funds previously allocated to the local program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Appeals Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1), a local program is considered an
agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case.

"§ 122C-100.17. Personnel.

Employees appointed by the program director in accordance with G.S. 122C-95(1) are employees of the administering county. For the purpose of personnel administration of a local program, Chapter 126 of the General Statutes applies unless otherwise provided in this Article.

"§ 122C-100.18. Supervision of services.

Unless otherwise specified, client services are the responsibility of a qualified professional. Direct medical and psychiatric services shall be provided by a qualified psychiatrist or a physician with adequate training and experience acceptable to the Secretary.

"§ 122C-100.19. Salary plan for employees of the local program.

An administering county shall establish a salary plan which shall set the salaries for local program employees appointed by the program director. The salary plan shall be in compliance with Chapter 126 of the General Statutes. In a multicounty local program, the salary plan shall not exceed the highest paying salary plan of any participating county. In a single-county local program, the salary plan shall not exceed the administering county's salary plan. The salary plan limitations set forth in this section may be exceeded only if the board or boards of county commissioners, as the case may be, jointly agree to exceed these limitations.

"§ 122C-100.20. Establishment of a professional reimbursement policy.

An administering county shall adopt and enforce a professional reimbursement policy. This policy shall (i) require that fees for the provision of services received directly under the supervision of the program director shall be paid to the administering county, (ii) prohibit employees of the administering county from providing services on a private basis which require the use of the resources and facilities of the local program, and (iii) provide that employees may not accept dual compensation and dual employment unless they have the written permission of the administering county.

"Part 6.
"State Facilities.

"§ 122C-100.28. Secretary's jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) For the mentally ill:
   a. Cherry Hospital;
   b. Dorothea Dix Hospital;
   c. John Umstead Hospital;
   d. Broughton Hospital; and

(2) For the mentally retarded:
   a. Caswell Center;
   b. O'Berry Center;
   c. Murdoch Center;
   d. Western Carolina Center;
e. Black Mountain Center; and

(3) For substance abusers:
   a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville;
   b. Julian F. Keith Alcohol and Drug Abuse Treatment Center; and

(4) As special care facilities:
   a. North Carolina Special Care Center;
   b. Whitaker School; and
   c. Wright School.

(b) The Secretary may, with the approval of the Governor and Council of State, close any State facility.

§ 122C-100.29. Authority to contract with administering county.
To establish a coordinated system of services for its clients, a State facility shall contract with an administering county. Contracted services shall meet the rules of the Commission and the Secretary.

§ 122C-100.30. Appointment of employees as police officers who may arrest without warrant.
The director of each State facility may appoint as special police officers the number of employees of their respective facilities they consider necessary. Within the grounds of the State facility the employees appointed as special police officers have all the powers of police officers of cities. They have the right to arrest without warrant individuals committing violations of the State law or the ordinances or rules of that facility in their presence and to bring the offenders before a magistrate who shall proceed as in other criminal cases.

§ 122C-100.31. Oath of special police officers.
Before exercising the duties of a special police officer, the employees appointed under G.S. 122C-183 shall take an oath or affirmation of office before an officer empowered to administer oaths. The oath or affirmation shall be filed with the records of the Department. The oath or affirmation of office is:

State of North Carolina: ________ County.
I, ________, do solemnly swear (or affirm) that I will well and truly execute the duties of office of special police officer in and for the State facility called ________, according to the best of my skill and ability and according to law; and that I will use my best endeavors to enforce all the ordinances of said facility, and to suppress nuisances, and to suppress and prevent disorderly conduct within these grounds. So help me, God.

Sworn and subscribed before me, this ________ day of ________, A.D. ________

§ 122C-100.32. Application of funds belonging to State facilities.
(a) All moneys and proceeds of property donated to any State facility shall be deposited into the State treasury and accounted for in the appropriate fund as determined by the Secretary and approved by the Office of State Budget, Planning, and Management. All moneys and proceeds of property donated in which there are special directions for their application and the interest earned on these funds shall be spent as the donor has directed and except as required for deposit with the State treasury, shall
not be subject to the provisions of the Executive Budget Act except for capital
improvements projects which shall be authorized and executed in accordance with G.S.
143-18.1.

(b) Proceeds from the transfer or sale of surplus, obsolete, or unused equipment
of State facilities shall be deposited and accounted for in accordance with G.S. 143-
49(4).

(c) The net proceeds from the sale, lease, rental, or other disposition of real estate
owned by a State facility shall be deposited and accounted for in accordance with G.S.
146-30.

(d) All proceeds from the operation of vending facilities as defined in G.S. 111-
42(d) and operated by State facilities shall be deposited and accounted for in accordance
with G.S. 143-12.1.

(e) All other revenues and other receipts collected by a State facility shall be
deposited to the credit of the State treasury in accordance with G.S. 147-77.

§ 122C-100.33. General Assembly visitors of State facilities.
The members of the General Assembly are ex officio visitors of all State facilities,
provided that the common law right of visitation of a State facility is abrogated to the
extent that it does not include the right to access to confidential information. This right
of access is only as granted by statute.

"Part 7.
"Quality Assurance.

§ 122C-100.34. Quality of services.
(a) The assurance that services provided are of the highest possible quality within
available resources is an obligation of local programs and the Secretary.

(b) Each local program and State facility shall comply with the rules of the
Commission regarding quality assurance activities, including: program evaluation;
utilization and peer review; and staff qualifications, privileging, supervision, education,
and training. These rules may not nullify compliance otherwise required by Chapter 126
of the General Statutes.

(c) Each local program and State facility shall develop internal processes to
monitor and evaluate the level of quality obtained by all its programs and services
including the activities prescribed in the rules of the Commission.

(d) The Secretary shall develop rules for a review process to monitor county
facilities and State facilities for compliance with the required quality assurance
activities as well as other rules of the Commission and the Secretary. The rules may
provide that the Secretary has the authority to determine whether applicable standards of
practice have been met.

(e) For purposes of peer review functions only:
   (1) A member of a duly appointed quality assurance committee who acts
       without malice or fraud shall not be subject to liability for damages in
       any civil action on account of any act, statement, or proceeding
       undertaken, made, or performed within the scope of the functions of
       the committee.
(2) The proceedings of a quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records" defined,' and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or civil suit relating to the medical staff membership, clinical privileges, or employment of the provider. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review process, but cannot be asked about his testimony before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings.

(3) Peer review information that is confidential and is not subject to discovery or use in civil actions under subdivision (2) of this subsection may be released to a professional standards review organization that contracts with an agency of this State or the federal government to perform any accreditation or certification function. Information released under this subdivision shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released under this subdivision retains its confidentiality and is not subject to discovery or use in any civil actions as provided under subdivision (2) of this subsection, and the standards review organization shall keep the information confidential subject to that subdivision.

§ 122C-100.35. Review and protection of information.

(a) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a patient or client, as needed to ensure quality assurance activities, the Secretary may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or
history of a client of a local program or State facility. The Secretary may also review the personnel records of employees of a local program or State facility.

(b) A local program, State facility, its employees, and any other individual interviewed in the course of an inspection are immune from liability for damages resulting from disclosure of any information to the Secretary.

Except as required by law, it is unlawful for the Secretary or his representative to disclose:

(1) Any confidential or privileged information obtained under this section unless the client or his legally responsible person authorizes disclosure in writing; or

(2) The name of anyone who has furnished information concerning a local program or State facility without that individual's consent.

Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars ($500.00).

(c) The Secretary shall adopt rules to ensure that unauthorized disclosure does not occur.

(d) All confidential or privileged information obtained under this section and the names of individuals providing such information are not public records under Chapter 132 of the General Statutes.

SECTION 1.6.(a) Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A. MH/DD/SA Quality of Care Ombudsman Program."

§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established The MH/DD/SA Quality of Care Ombudsman Program. The purpose of this Program is to provide consumers, their families, and providers with the information and assistance needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/ definitions.

Unless the context clearly requires otherwise, as used in this Article:

(1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
(2) 'State Ombudsman' means the individual charged with the duties and functions of the State MH/DD/SA Quality of Care Ombudsman Program established under this Article.

(3) 'State Ombudsman Program' means the State MH/DD/SA Quality of Care Ombudsman Program.

(4) 'Local Ombudsman' means an individual employed and certified by the State Ombudsman to perform the duties and functions of the MH/DD/SA Quality of Care Local Ombudsman Program in accordance with this Article.

(5) 'Local Ombudsman Program' means a local MH/DD/SA Quality of Care Local Ombudsman Program.

(6) 'Consumer' means an individual who is admitted to or receiving service from, or who in the past had been admitted to or received services from, a State or local program facility.

"§ 122C-12. State MH/DD/SA Quality of Care Ombudsman Program.

The Secretary shall establish a State MH/DD/SA Quality of Care Ombudsman Program office in the Office of the Secretary of Health and Human Services. The Secretary shall appoint a State Ombudsman. In selecting the State Ombudsman, the Secretary shall consider candidates recommended by citizens' organizations representing the interest of individuals with needs for mental health, developmental disabilities, and substance abuse services. The State Ombudsman may hire individuals to assist in executing the State Ombudsman Program and to act on the State Ombudsman's behalf. The State Ombudsman shall have expertise and experience in MH/DD/SA, including expertise and experience in advocacy. The Attorney General shall provide legal staff and advice to the State Ombudsman.


The State Ombudsman shall:

(1) Establish Local Quality Care of Ombudsman Programs described in G.S. 122C-14 and appoint the Local Ombudsmen.

(2) Establish certification criteria and minimum training requirements for Local Ombudsmen.

(3) Certify Local Ombudsmen. The certification requirements shall include completion of the minimum training requirements as established by the State Ombudsman.

(4) Provide training and technical assistance to Local Ombudsmen.

(5) Establish procedures for processing and resolving quality of care complaints both at the State and local levels.

(6) Establish procedures for appropriate access by the State and Local Ombudsmen to State and local program facilities and records to ensure MH/DD/SA quality of care. The procedures shall include, but not be limited to, interviews of owners, consumers, and employees of State and local program facilities and on-site monitoring of conditions and services. The procedures shall ensure the confidentiality of these
records and that the identity of any complainant or consumer will not
be disclosed except as otherwise provided by law.

(7) Provide information to the public about available MH/DD/SA services,
complaint procedures, and dispute resolution processes.

(8) Analyze and monitor the development and implementation of federal,
State, and local laws, regulations, and policies relating to consumers
and recommend changes as considered necessary to the Secretary.

(9) Analyze and monitor data relating to complaints or concerns about
access and quality of care issues to identify significant local or
systemic problems, as well as opportunities for improvement, and
advise and assist the Secretary in developing policies, plans, and
programs for ensuring that the quality of services provided to
consumers is of a uniformly high standard.

(10) Submit a report annually to the Secretary, the Joint Legislative
Oversight Committee on Mental Health, Developmental Disabilities,
and Substance Abuse Services, and the Joint Legislative Health Care
Oversight Committee containing data and findings regarding the types
of problems experienced and complaints reported by or on behalf of
providers, consumers, and employees of providers, as well as
recommendations to resolve identified quality of care issues and to
improve the administration of MH/DD/SA facilities and the delivery of
MH/DD/SA services throughout the State.

§ 122C-14. Local Ombudsman; duties.
(a) The State Ombudsman shall establish a Local MH/DD/SA Quality of Care
Ombudsman Program in 12 locations in the State. In determining where to locate the
Local Ombudsman Programs, the State Ombudsman shall ensure reasonable consumer
accessibility to the Local Ombudsman. Local Ombudsmen shall administer the Local
Ombudsman Programs. The State Ombudsman shall appoint a Local Ombudsman for
each of the Local Ombudsman Programs. The State Ombudsman shall supervise the
Local Ombudsmen.

(b) Pursuant to policies and procedures established by the State Ombudsman, the
Local Ombudsman shall:

(1) Assist consumers and their families with information, referral, and
assistance in obtaining appropriate services.

(2) Assist consumers and their families in understanding their rights and
remedies available to them from the public service system.

(3) Serve as a liaison between consumers and their families and facility
personnel and administration.

(4) Promote the development of consumer and citizen involvement in
addressing issues relating to MH/DD/SA.

(5) Visit the State and local program facilities to review and evaluate the
quality of care provided to consumers and submit findings to the State
Ombudsman.
(6) Work with providers and consumers and their families or advocates to resolve issues of common concern.

(7) Participate in regular Local Ombudsman training established by the State Ombudsman.

(8) Report regularly to the administering county and the local program board about the Local Ombudsman's activities, including the findings made pursuant to subdivision (5) of this subsection (b).

(9) Provide training and technical assistance to counties, local program boards and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.

(11) Provide information to the public on MH/DD/SA issues.

(12) Perform any other related duties as directed by the State Ombudsman.

"§ 122C-15. State/Local Ombudsman; authority to enter; communication with residents, clients, patients; review of records.

(a) For purposes of this Section, §122C-16 and §122C-17, 'Ombudsman' means either the State Ombudsman or any Local Ombudsman.

(b) In performing the Ombudsman's duties, an Ombudsman shall have access at all times to any State or local program facility and shall have reasonable access to any consumer or to an employee of a State or local program facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Ombudsman shall register.

(c) In performing the Ombudsman's duties, an Ombudsman may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with an Ombudsman. When initiating communication, an Ombudsman shall inform the consumer of the Ombudsman's purpose and that a consumer may refuse to communicate with the Ombudsman. An Ombudsman also may communicate privately and confidentially with State and local program facility employees in performing the Ombudsman's duties.

(d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Ombudsman's duties, the Ombudsman may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law pertaining to the privacy of personnel records, in the course of the Ombudsman's duties, the Ombudsman shall have access to personnel records of employees of State or local program facilities.

"§ 122C-16. State/Local Ombudsman; resolution of complaints.

(a) Following receipt of a complaint, an Ombudsman shall attempt to resolve the complaint using, whenever possible, informal mediation, conciliation, and persuasion.

(b) If a complaint concerns a particular consumer, the consumer may participate in determining what course of action the Ombudsman should take on the consumer's
behalf. If the consumer has an opinion concerning a course of action, the Ombudsman shall consider the consumer's opinion.

(c) Following receipt of a complaint, an Ombudsman shall contact the service provider to allow the service provider the opportunity to respond, provide additional information, or initiate action to resolve the complaint.

(d) Complaints or conditions adversely affecting consumers that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the Ombudsman to the appropriate licensing agency under Article 2 of this Chapter.

§ 122C-17. State/Local Ombudsman: confidentiality.

(a) Except as required by law, an Ombudsman shall not disclose the following:

(1) Any confidential or privileged information obtained pursuant to §122C-15 unless the affected individual authorizes disclosure in writing; or

(2) The name of anyone who has furnished information to an Ombudsman unless the individual authorizes disclosure in writing.

(b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine not to exceed five hundred dollars ($500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing information to an Ombudsman are exempt from disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and redisclosure of protected information shall be in compliance with federal confidentiality laws protecting medical records.

§ 122C-18. State/Local Ombudsman: retaliation prohibited.

No one shall discriminate or retaliate against any person, provider, or facility because the person, provider, or facility in good faith complained or provided information to an Ombudsman.

§ 122C-19. State/Local Ombudsman: immunity from liability.

(a) The State and Local Ombudsman shall be immune from liability for the good faith performance of official Ombudsman duties.

(b) A State or local program facility, its employees, and any other individual interviewed by an Ombudsman are immune from liability for damages resulting from disclosure of any information or documents to an Ombudsman pursuant to this Article.

§ 122C-20. State/Local Ombudsman: penalty for willful interference.

Willful interference with the State or a Local Ombudsman in the performance of the Ombudsman's official duties is a Class 1 misdemeanor.

SECTION 1.6.(b) There is appropriated from the General Fund to the Department of Health and Human Services the sum of $_______ for the 2001-2002 fiscal year and the sum of $_______ for the 2002-2003 fiscal year to implement this Section.

SECTION 1.7.(a) G.S. 122C-112(13) is repealed.

SECTION 1.7.(b) Part 1 of Article 3 of Chapter 143B is amended by adding the following new section to read:

§ 143B-139.6A. Secretary's responsibilities regarding availability of early intervention services.
The Secretary of the Department of Health and Human Services shall ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

The Secretary shall adopt rules to implement the early intervention system, in cooperation with all other appropriate agencies."

SECTION 1.8.(a) G.S. 143B-147 reads as rewritten:

(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, alcohol and drug abuse—substance abuse programs including education, prevention, intervention, treatment, rehabilitation—screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the mental health, developmental disabilities, or alcohol and drug abuse—substance abuse problems of the citizens of this State. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

(1) To adopt rules regarding the
   a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;
   b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse authorities under Part 4 of Article 4 and Part 4 of Article 3B of Chapter 122C of the General Statutes;
   c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 and Part 4 of Article 3B of Chapter 122C of the General Statutes;"
d. Requirements of the federal government for grants in aid for mental health, developmental disabilities, alcohol or drug abuse programs which may be made available to local programs or the State. This section is to be liberally construed in order that the State and its citizens may benefit from such grants in aid; and 

e. Implementation of single portal of entry and exit policies established pursuant to Chapter 122C of the General Statutes; and 

f. Standards of services for mental health, developmental disabilities, and substance abuse services.

(2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes.

(3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:

a. Mental illness and mental health,

b. Developmental disabilities,

c. Alcohol abuse, and Substance abuse.

d. Drug abuse;

(4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration of plans involving mental health, developmental disabilities, alcohol abuse, and drug abuse services; and substance abuse services;

(5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by G.S. 90-100;

(6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or welfare;
(7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General Statutes;

(8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(b) All rules hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of the Department of Health and Human Services provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services, controlled substances rules and regulations adopted by the North Carolina Drug Commission, and all rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(d) All rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be enforced by the Department of Health and Human Services.

SECTION 1.8.(b) G.S. 122C-112(a) is amended by adding the following new subdivision to read:

"(17) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to local programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid."

SECTION 1.8.(c) G.S. 143B-148 reads as rewritten:


(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of 26 members:

(1) Four of whom shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. have concern for the problems of mental illness, developmental disabilities, alcohol and drug abuse. Members shall serve for two-year terms beginning July 1 of odd-numbered years."
Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;

(2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.

a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.

b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.

c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."
SECTION 1.9. The Department of Health and Human Services shall do the following to prepare for the certification of local programs to administer and deliver mental health, developmental disabilities, and substance abuse services.

(1) Develop the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with G.S. 122C-100.9. Not later than January 1, 2002, the Department shall submit the State Plan to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services for its review.

(2) Review all rules currently in effect and adopted by the Secretary, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and identify areas of duplication, vagueness, or ambiguity in content or in application. In conducting this review, the Department shall solicit input from current area programs and providers on perceived problems with rules. The review may also include review of rules pertaining to mental health, developmental disabilities, and substance abuse services that are in effect and adopted by agencies other than the Secretary and the Commission.

(3) Review the oversight and monitoring functions currently implemented by the Department to determine the effectiveness of the activities in achieving the intended results. Improve the oversight and monitoring functions and activities, if necessary.

(4) Develop service standards, outcomes, and financing formula for core and targeted services to prepare for their administration, financing, and delivery by local programs.

(5) Establish criteria and operational procedures for the Quality Care Ombudsman Program.

(6) Conduct an independent review of the Department's own readiness to implement system reform.

(7) Develop a plan for phased-in implementation of local programs in accordance with this act. This plan should anticipate receiving letters of intent by July 1, 2002, and implementation in Group I counties not later than July 1, 2003, Group II counties not later than July 1, 2004, Group III counties not later than July 1, 2005, and all counties not later than July 1, 2006.

(8) Develop format and content requirements for local business plans and methods for Department evaluation of the local business plans.

(9) Develop a plan to conduct readiness reviews of local programs upon their application for certification.

The activities required under subdivisions (1) through (4) of this section shall be completed by December 1, 2001. On or before October 1, 2001, and quarterly thereafter, the Department shall submit a progress report on each of the activities required under this section. By December 1, 2001, the Department shall submit a final report on each of the activities required under subdivisions (1) through (4) of this
section. The Department shall make its reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 1.10.(a) Not later than September 1, 2001, each area mental health, developmental disabilities, and substance abuse authority in this State shall provide to the Department of Health and Human Services the most recent data describing with specificity all of the following:

1. Financial statement indicating the nature and value of assets, liabilities, and other outstanding debt or other financial obligations of the area authority.
2. The entity that holds title to all real and personal property used by the area authority to provide or administer mental health, developmental disabilities, and substance abuse services.

SECTION 1.10.(b) Not later than December 1, 2001, the Department of Health and Human Services shall make recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on how the assets and liabilities of area authorities should be transferred or otherwise distributed when counties assume responsibility for area program governance and services. The recommendation shall include necessary enabling legislation.

SECTION 1.10.(c) The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall consider the disposition of area authority assets, liabilities, and other financial obligations when counties assume responsibility for area program governance and services as enacted in this act. In considering this issue, the Committee shall review the recommendations of the Department submitted pursuant to subsection (b) of this section, and any other recommendations submitted by counties, area authorities, or other interested persons. The Committee shall report its findings and recommendations, including necessary enabling legislation, to the 2001 General Assembly, Regular Session 2002, upon its convening.

SECTION 1.11. Rules adopted by the Secretary of Health and Human Services and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be adopted in accordance with Chapter 150B of the General Statutes.

PART 2. CONFORMING STATUTORY CHANGES

SECTION 2.1.(a) G.S. 7B-904(c) reads as rewritten:

"(c) At the dispositional hearing or a subsequent hearing in the case of a juvenile who has been adjudicated abused, neglected, or dependent, the court may determine whether the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or
contributed to the juvenile's adjudication or to the court's decision to remove custody of
the juvenile from the parent, guardian, custodian, stepparent, adult member of the
juvenile's household, or adult relative entrusted with the juvenile's care. If the court
finds that the best interests of the juvenile require the parent, guardian, custodian,
stepparent, adult member of the juvenile's household, or adult relative entrusted with the
juvenile's care undergo treatment, it may order that individual to comply with a plan of
treatment approved by the court or condition legal custody or physical placement of the
juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's
household, or adult relative entrusted with the juvenile's care upon that individual's
compliance with the plan of treatment. The court may order the parent, guardian,
custodian, stepparent, adult member of the juvenile's household, or adult relative
entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this
subsection. In cases in which the court has conditioned legal custody or physical
placement of the juvenile with the parent, guardian, custodian, stepparent, adult member
of the juvenile's household, or adult relative entrusted with the juvenile's care upon
compliance with a plan of treatment, the court may charge the cost of the treatment to
the county of the juvenile's residence if the court finds the parent, guardian, custodian,
stepparent, adult member of the juvenile's household, or adult relative entrusted with the
juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court
finds the parent, guardian, custodian, stepparent, adult member of the juvenile's
household, or adult relative entrusted with the juvenile's care is unable to pay the cost of
the treatment ordered pursuant to this subsection, the court may order that individual to
receive treatment currently available from the area mental health program that serves
the parent's catchment area, or the local program as defined in G.S. 122C-3 that
serves the parent's local program service area."

"(b) Each Local Team shall consist of the following persons:
(1) The director of the county department of social services and a member
of the director's staff;
(2) A local law enforcement officer, appointed by the board of county
commissioners;
(3) An attorney from the district attorney's office, appointed by the district
attorney;
(4) The executive director of the local community action agency, as
defined by the Department of Health and Human Services, or the
executive director's designee;
(5) The superintendent of each local school administrative unit located in
the county, or the superintendent's designee;
(6) A member of the county board of social services, appointed by the
chair of that board;
(7) A local mental health professional, appointed by the director of the
area authority or local program established under Chapter 122C of the
General Statutes;
(8) The local guardian ad litem coordinator, or the coordinator's designee;
(9) The director of the local department of public health; and
(10) A local health care provider, appointed by the local board of health."

**SECTION 2.1.(c)** G.S. 7B-2702(d) reads as rewritten:

"(d) In cases in which the court has ordered the parent of the juvenile to comply with or undergo evaluation or treatment, the court may order the parent to pay the cost of evaluation or treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent upon the parent's compliance with a plan of evaluation or treatment, the court may charge the cost of the evaluation or treatment to the county of the juvenile's residence if the court finds the parent is unable to pay the cost of the evaluation or treatment. In all other cases, if the court finds the parent is unable to pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court may order the parent to receive evaluation or treatment currently available from the area mental health program that serves the parent's catchment area, area or the local program as defined in G.S. 122C-3 that serves the parent's local program service area."

**SECTION 2.2.** G.S. 14-250 reads as rewritten:

"§ 14-250. Publicly owned vehicle to be marked.

It shall be the duty of the executive head of every department of the State government, and of any county, or of any institution or agency of the State, to have painted on every motor vehicle owned by the State, or by any county, or by any institution or agency of the State, a statement that such car belongs to the State or to some county, or institution or agency of the State. Provided, however, that no automobile used by any county officer or county official for the purpose of transporting, apprehending or arresting persons charged with violations of the laws of the State of North Carolina, shall be required to be lettered. Provided, further, that in lieu of the above method of marking motor vehicles owned by any agency or department of the State government, it shall be deemed a compliance with the law if such vehicles have imprinted on the license tags thereof, above the license number, the words "State Owned" and that such vehicles have affixed to the front thereof a plate with the statement "State Owned". Provided, further, that in lieu of the above method of marking vehicles owned by any county, it shall be deemed a compliance with the law if such vehicles have painted or affixed on the side thereof a circle not less than eight inches in diameter showing a replica of the seal of such county. Provided, further, that no county-owned motor vehicle used for transporting day or residential facility clients of area mental health, developmental disabilities, and substance abuse authorities established under Article 4 of Chapter 122C of the General Statutes or local programs established under Article 3B of Chapter 122C of the General Statutes shall be required to be lettered; provided, further, notwithstanding this sentence, each vehicle shall bear the distinctive permanent registration plate pursuant to G.S. 20-84. Provided, further, that in lieu of the above method of marking vehicles owned by the State and permanently assigned to members of the Council of State, it shall be deemed a compliance with the law if such vehicles have imprinted on the license tags thereof the license number assigned to the appropriate member of the Council of State pursuant to G.S. 20-81(4); a member of the Council of State shall not be assessed any registration
fee if he elects to have a State-owned motor vehicle assigned to him designated by his  
on official plate number.

The General Assembly may authorize exemptions from the provisions of this section  
for each fiscal year. Each agency shall submit requests for private tags to the Division of  
Motor Fleet Management of the Department of Administration. The Division shall  
report the requests to the Appropriations Committees of the General Assembly by June  
1."

SECTION 2.3. G.S. 62-289.3 reads as rewritten:

"§ 62-289.3. Definitions.

As used in this Article:

(1) 'Human service agency' means any charitable or governmental agency  
including, but not limited to: county departments of social services,  
local programs as defined in G.S. 122C-3, area mental health, mental  
retardation or substance abuse authorities, local health departments,  
councils on aging, community action agencies, sheltered workshops,  
group homes and State residential institutions.

(2) 'Human service transportation' means motor vehicle transportation  
provided on a nonprofit basis by a human service agency for the  
purpose of transporting clients or recipients in connection with  
programs sponsored by the agency. "Human service transportation"  
shall also mean motor vehicle transportation provided by for-profit  
persons under exclusive contract with a human service agency for the  
transportation of clients or recipients, and such provider shall also  
qualify as a human service agency for the purpose of motor vehicle  
registration during the term of the contract. The motor vehicle may be  
owned, leased, borrowed, or contracted for use by or from the human  
service agency.

(3) 'Nonprofit' as applied to human service transportation means motor  
vehicle transportation provided at cost.

(4) 'Person' means an individual, corporation, company, association,  
partnership or other legal entity.

(5) 'Volunteer transportation' means motor vehicle transportation provided  
by any person under the direction, sponsorship, or supervision of a  
human service agency. The person may receive an allowance to defray  
the actual cost of operating the vehicle but shall not receive any other  
compensation."

SECTION 2.4. G.S. 90-96.01(a) reads as rewritten:

"(a) The Commission for Mental Health, Developmental Disabilities, and  
Substance Abuse Services shall establish standards and guidelines for the curriculum  
and operation of local drug education programs. The Department of Health and Human  
Services shall oversee the development of a statewide system of schools and shall insure  
that schools are available in all localities of the State as soon as is practicable.

(1) A fee of one hundred fifty dollars ($150.00) shall be paid by all  
persons enrolling in an accredited drug education school established
pursuant to this section. That fee must be paid to an official designated for that purpose and at a time and place specified by the area mental health, developmental disabilities, and substance abuse authority or the local program as defined in G.S. 122C-3 providing the course of instruction in which the person is enrolled. If the clerk of court in the county in which the person is convicted agrees to collect the fees, the clerk shall collect all fees for persons convicted in that county. The clerk shall pay the fees collected to the area mental health, developmental disabilities, and substance abuse authority or the local program, as applicable, for the catchment or program service area where the clerk is located regardless of the location where the defendant attends the drug education school and that authority or local program shall distribute the funds in accordance with the rules and regulations of the Department. The fee must be paid in full within two weeks of the date the person is convicted and before he attends any classes, unless the court, upon a showing of reasonable hardship, allows the person additional time to pay the fee or allows him to begin the course of instruction without paying the fee. If the person enrolling in the school demonstrates to the satisfaction of the court that ordered him to enroll in the school that he is unable to pay and his inability to pay is not willful, the court may excuse him from paying the fee. Parents or guardians of persons attending drug education school shall be allowed to audit the drug education school along with their children or wards at no extra expense.

(2) The Department of Health and Human Services shall have the authority to approve programs to be implemented by area mental health, developmental disabilities, and substance abuse authorities. Authorities or local programs, Area mental health, developmental disabilities, and substance abuse authorities or local programs may subcontract for the delivery of drug education program services. The Department shall have the authority to approve budgets and contracts with public and private governmental and nongovernmental bodies for the operation of such schools.

(3) Fees collected under this section and retained by the area mental health, developmental disabilities, and substance abuse authority or the local program shall be placed in a nonreverting fund. That fund must be used, as necessary, for the operation, evaluation and administration of the drug educational schools; excess funds may only be used to fund other drug or alcohol–substance abuse programs. The area mental health, developmental disabilities, and substance abuse authority or local program shall remit five percent (5%) of each fee collected to the Department of Health and Human Services on a monthly basis. Fees received by the Department as required by this section may only be
used in supporting, evaluating, and administering drug education
schools, and any excess funds will revert to the General Fund.

(4) All fees collected by any area mental health, developmental
disabilities, and substance abuse authority or local program under the
authority of this section may not be used in any manner to match other
State funds or be included in any computation for State
formula-funded allocations."

SECTION 2.5. G.S. 90-332.1(a)(8) reads as rewritten:
"(a) It is not the intent of this Article to regulate members of other regulated
professions who do counseling in the normal course of the practice of their profession.
Accordingly, this Article does not apply to:

…

(8) Any person performing counseling solely as an employee of an area
facility, facility or local program facility, as defined in G.S. 122C-3(14)a., those terms are defined in G.S. 122C-3(14), if both of the
following apply:

a. The services are provided by (i) a qualified professional as
defined in G.S. 122C-3(31) and subject to the rules adopted by
the Commission for Mental Health, Developmental Disabilities,
and Substance Abuse Services, or (ii) an employee supervised
by a qualified professional as defined in G.S. 122C-3(31);

b. The area facility or local program facility has obtained written
verification from the following boards that the employee has
not had his or her license, registration, or certification revoked,
rescinded, or suspended: the North Carolina Board of Licensed
Professional Counselors, the North Carolina State Board of
Examiners of Practicing Psychologists, the North Carolina
Certification Board for Social Work, and the North Carolina
Marital and Family Therapy Certification Board;".

SECTION 2.6.(a) G.S. 108A-25.2 reads as rewritten:
"§ 108A-25.2. Exemption from limitations for individuals convicted of certain
drug-related felonies.

Individuals convicted of Class H or I controlled substance felony offenses in this
State shall be eligible to participate in the Work First Program and food stamp program:

(1) Six months after release from custody if no additional controlled
substance felony offense is committed during that period and
successful completion of or continuous active participation in a
required substance abuse treatment program determined appropriate by
the area mental health authority, authority or local program; or

(2) If not committed to custody, six months after the date of conviction if
no additional controlled substance felony offense is committed during
that period and successful completion of or continuous active
participation in a required substance abuse treatment program
determined appropriate by the area mental health authority, authority or local program.

A county department of social services shall require individuals who are eligible for Work First Program assistance and food stamp benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or food stamp benefits, if funds and programs are available and to the extent allowed by federal law."

SECTION 2.6.(b) G.S. 108A-27.3(c) reads as rewritten:
"(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, authority or local program, the local public health board, the local school systems, the business community, the board of county commissioners and community-based organizations representative of the population to be served."

SECTION 2.6.(c) G.S. 108A-27.6(c) reads as rewritten:
"(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, authority or the local program board as defined in G.S. 122C-3, the local public health board, the local school systems, the business community, the board of county commissioners, and community-based organizations representative of the population to be served."

SECTION 2.6.(d) G.S. 108A-29.1(e) reads as rewritten:
"(e) Area mental health authorities or local programs organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section."

SECTION 2.6.(e) G.S. 108A-103(b) reads as rewritten:
"(b) The staff and physicians of local health departments, area mental health, developmental disabilities, and substance abuse authorities, authorities or local programs, and other public or private agencies shall cooperate fully with the director in the performance of his duties. These duties include immediate accessible evaluations and in-home evaluations where the director deems this necessary."

SECTION 2.7. G.S. 120-217(a)(2) reads as rewritten:
"(2) Eleven members appointed by the President Pro Tempore of the Senate, as follows:
  a. Four shall be members of the Senate at the time of their appointment,
  b. One shall be the director of a mental health area authority, authority, and one shall be the director of a local program,
  c. One shall be a representative of the Association of County Commissioners,
d. One shall be a representative of the general public who has knowledge of issues relating to children and youth,
e. One shall be a licensed attorney whose practice includes the representation of parents accused of criminal or civil abuse or neglect, and
f. One shall be a chief district court judge recommended by the Council of Chief District Judges.
g. One shall be a representative from the North Carolina Child Advocacy Institute.
h. One shall be a representative from the North Carolina Child Fatality Task Force."

SECTION 2.8. G.S. 126-5(a) reads as rewritten:
"(a) The provisions of this Chapter shall apply to:
(1) All State employees not herein exempt, and
(2) To all employees of the following local entities:
   a. Area mental health, developmental disabilities, and substance abuse authorities, and local programs.
   b. Local social services departments.
   c. Local public health departments.
   d. Local emergency management agencies that receive federal grant-in-aid funds.
   An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.
(3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

SECTION 2.9. G.S. 131E-184(c) reads as rewritten:
"(c) The Department shall exempt from certificate of need review any conversion of existing acute care beds to psychiatric beds provided:
(1) The hospital proposing the conversion has executed a contract with the Department's Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and/or one or more of the Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities or an administering county as defined in G.S. 122C-3 to provide psychiatric beds to patients referred by the contracting agency or agencies; and
(2) The total number of beds to be converted shall not be more than twice the number of beds for which the contract pursuant to subdivision (1) of this subsection shall provide."

SECTION 2.10. G.S. 135-40.7B(b) reads as rewritten:
"(b) Notwithstanding any other provision of this Part, the following necessary services for the care and treatment of chemical dependency and mental illness shall be covered under this section: allowable institutional and professional charges for inpatient
care, outpatient care, intensive outpatient program services, partial hospitalization treatment, and residential care and treatment:

(1) For mental illness treatment:
   a. Licensed psychiatric hospitals;
   b. Licensed psychiatric beds in licensed general hospitals;
   c. Licensed residential treatment facilities;
   d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
   e. Licensed intensive outpatient treatment programs; and
   f. Licensed partial hospitalization programs; and
   g. Local programs as defined in G.S. 122C-3.

(2) For chemical dependency treatment:
   a. Licensed chemical dependency units in licensed psychiatric hospitals;
   b. Licensed chemical dependency hospitals;
   c. Licensed chemical dependency treatment facilities;
   d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
   e. Licensed intensive outpatient treatment programs;
   f. Licensed partial hospitalization programs; and
   g. Medical detoxification facilities or units;
   h. Local programs as defined in G.S. 122C-3.

SECTION 2.11. G.S. 143B-152.6 reads as rewritten:

"§ 143B-152.6. Cooperation of State and local agencies.
All agencies of the State and local government, including the Department of Juvenile Justice and Delinquency Prevention, departments of social services, health departments, local mental health, mental retardation, developmental disabilities, and substance abuse authorities local programs as defined in G.S. 122C-3, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies, and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program."

SECTION 2.12. G.S. 143B-152.14 reads as rewritten:

"§ 143B-152.14. Cooperation of State and local agencies.
All agencies of the State and local government, including the Department of Juvenile Justice and Delinquency Prevention, departments of social services, health departments, local mental health, mental retardation, developmental disabilities, and substance abuse authorities, local programs as defined in G.S. 122C-3, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and
Human Services, and local nonprofit corporations that receive grants in coordinating the
program at the State level and in implementing the program at the local level. The
Secretary of Health and Human Services, after consultation with the Superintendent of
Public Instruction, shall develop a plan for ensuring the cooperation of State agencies
and local agencies and encouraging the cooperation of private entities, especially those
receiving State funds, in the coordination and implementation of the program."

SECTION 2.13. G.S. 122C-181 reads as rewritten:

"§ 122C-181. Secretary’s jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall
operate the following facilities:

(1) For the mentally ill:
   a. Cherry Hospital;
   b. Dorothea Dix Hospital;
   c. John Umstead Hospital; and
   d. Broughton Hospital; and

(2) For the mentally retarded:
   a. Caswell Center;
   b. O’Berry Center;
   c. Murdoch Center;
   d. Western Carolina Center; and
   e. Black Mountain Center; and

(3) For substance abusers:
   a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
      Greenville; and
   b. Alcohol and Drug Abuse Treatment Center at Butner; and
   c. Julian F. Keith Alcohol and Drug Abuse Treatment Center at
      Black Mountain; Center; and

(4) As special care facilities:
   a. Wilson North Carolina Special Care Center;
   b. Whitaker School; and
   c. Wright School; and Wright School.
   d. Butner Adolescent Treatment Center.

(b) The Secretary may, with the approval of the Governor and Council of State,
close any State facility."

PART 3. EFFECTIVE DATE

SECTION 3. Sections 1.1 through 1.6(a) and 2.1 through 2.12 of this act
become effective July 1, 2002, except that these sections become effective only if the
2001 General Assembly has enacted legislation necessary to authorize or otherwise
provide for the lawful distribution of assets, liabilities, and other financial obligations of
area authorities upon their dissolution. Section 1.6(b) of this act becomes effective July
1, 2001. The remainder of this act is effective when it becomes law.