

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 397
Committee Substitute Favorable 4/15/03
Committee Substitute Favorable #2 4/15/03
Fourth Edition Engrossed 4/16/03
Senate Appropriations/Base Budget Committee Substitute Adopted 4/28/03
Sixth Edition Engrossed 4/28/03**

Short Title: 2003 Budget Act.

(Public)

Sponsors:

Referred to:

March 11, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND
3 CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS,
4 AND AGENCIES, AND FOR OTHER PURPOSES, AND TO IMPLEMENT A
5 STATE BUDGET THAT ENABLES THE STATE TO PROVIDE A
6 SUSTAINABLE RECOVERY THROUGH STRONG EDUCATIONAL AND
7 ECONOMIC TOOLS.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. INTRODUCTION AND TITLE OF ACT**

11
12 Requested by: Senators Garrou, Dalton, Hagan

13 **INTRODUCTION**

14 **SECTION 1.1.** The appropriations made in this act are for maximum
15 amounts necessary to provide the services and accomplish the purposes described in the
16 budget. Savings shall be effected where the total amounts appropriated are not required
17 to perform these services and accomplish these purposes and, except as allowed by the
18 Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the
19 end of each fiscal year.

20
21 Requested by: Senators Garrou, Dalton, Hagan

22 **TITLE OF ACT**

23 **SECTION 1.2.** This act shall be known as the "Current Operations and
24 Capital Improvements Appropriations Act of 2003."
25

26 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

27
28 Requested by: Senators Garrou, Dalton, Hagan

29 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

30 **SECTION 2.1.** Appropriations from the General Fund of the State for the
31 maintenance of the State departments, institutions, and agencies, and for other purposes

1 as enumerated are made for the biennium ending June 30, 2005, according to the
2 following schedule:

3
4 **Current Operations – General Fund**

2003-2004

2004-2005

5
6 **EDUCATION**

7
8 Community Colleges System Office 659,476,062 662,736,376

9
10 Department of Public Instruction 6,029,629,683 6,025,274,564

11
12 University of North Carolina – Board of Governors 1,794,573,717 1,829,669,657

13
14 **HEALTH AND HUMAN SERVICES**

15
16 Department of Health and Human Services

17 Office of the Secretary 82,168,433 80,968,433

18 Division of Aging 27,685,838 27,685,838

19 Division of Blind Services/Deaf/HH 9,302,670 9,387,008

20 Division of Child Development 259,017,167 259,210,693

21 Division of Education Services 31,806,862 31,670,076

22 Division of Facility Services 10,071,055 10,071,055

23 Division of Medical Assistance 2,269,060,187 2,584,744,370

24 Division of Mental Health 576,408,911 579,261,762

25 NC Health Choice 50,368,030 56,426,280

26 Division of Public Health 125,791,904 123,963,324

27 Division of Social Services 176,189,220 186,039,814

28 Division of Vocation Rehabilitation 40,042,124 40,834,858

29 Total 3,657,912,401 3,990,263,511

30
31 **NATURAL AND ECONOMIC RESOURCES**

32
33 Department of Agriculture and Consumer Services 48,477,909 48,604,240

34
35 Department of Commerce

36 Commerce 45,125,448 33,695,769

37 Commerce State-Aid 10,316,728 10,266,728

38 NC Biotechnology Center 5,883,395 5,883,395

39 Rural Economic Development Center 4,491,587 4,491,587

40
41 Department of Environment and Natural Resources

42 Environment and Natural Resources 147,683,265 153,527,049

43 Clean Water Management Trust Fund 100,000,000 100,000,000

44
45 Department of Labor 13,265,454 13,274,104

46
47 **JUSTICE AND PUBLIC SAFETY**

48
49 Department of Correction 940,198,075 959,902,282

50
51 Department of Crime Control and Public Safety 29,034,326 28,139,010

52
53 Judicial Department 303,317,883 310,514,697

54 Judicial Department – Indigent Defense 72,674,829 70,741,793

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

1	Department of Justice	70,673,310	71,459,312
2			
3	Department of Juvenile Justice and		
4	Delinquency Prevention	130,910,473	130,730,498
5			
6	GENERAL GOVERNMENT		
7			
8	Department of Administration	52,005,520	52,583,907
9			
10	Office of Administrative Hearings	2,409,683	2,411,797
11			
12	Department of State Auditor	10,293,801	10,293,801
13			
14	Office of State Controller	9,694,464	9,719,451
15			
16	Department of Cultural Resources		
17	Cultural Resources	54,532,248	54,253,598
18	Roanoke Island Commission	1,634,905	1,636,559
19			
20	State Board of Elections	7,439,982	4,915,939
21			
22	General Assembly	41,561,463	44,971,305
23			
24	Office of the Governor		
25	Office of the Governor	4,976,503	4,826,503
26	Office of State Budget and Management	4,211,805	4,216,110
27	OSBM – Reserve for Special Appropriations	3,130,000	3,130,000
28	Housing Finance Agency	4,750,945	4,750,945
29			
30	Department of Insurance		
31	Insurance	26,307,054	23,187,587
32	Insurance – Volunteer Safety Workers'		
33	Compensation	4,500,000	4,500,000
34			
35	Office of Lieutenant Governor	601,722	601,722
36			
37	Department of Revenue	73,964,774	74,062,627
38			
39	Rules Review Commission	310,454	310,454
40			
41	Department of Secretary of State	7,857,198	7,816,198
42			
43	Department of State Treasurer		
44	State Treasurer	7,575,029	7,577,784
45	State Treasurer – Retirement for Fire and		
46	Rescue Squad Workers	7,181,179	7,181,179
47			
48	TRANSPORTATION		
49			
50	Department of Transportation	11,429,525	11,460,101
51			
52	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
53			
54	Reserve for Compensation Increases	141,350,000	135,250,000
55			

1	Reserve for State Health Plan	113,418,000	151,225,000
2			
3	Reserve for Retiree Health Benefits	36,800,000	36,800,000
4			
5	Reserve for Teachers' and State Employees'		
6	Retirement Contribution	29,555,000	157,200,000
7			
8	Reserve for Transfer of Various Benefit Plans	(86,250,000)	(3,250,000)
9			
10	Contingency and Emergency	5,000,000	5,000,000
11			
12	Reserve for Salary Adjustments	500,000	500,000
13			
14			
15	Mental Health, Developmental Disabilities and		
16	Substance Abuse Services Trust Fund	15,000,000	0
17			
18	Reserve to Implement HIPAA	2,000,000	0
19			
20	Reserve for Easley Health Initiatives	2,500,000	2,500,000
21			
22	Debt Service		
23	General Debt Service	387,785,920	503,639,452
24	Federal Reimbursement	1,155,948	1,155,948
25			
26	TOTAL CURRENT OPERATIONS –		
27	 GENERAL FUND	15,048,827,667	15,773,602,539

Requested by: Senators Garrou, Dalton, Hagan

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2003-2005 biennial budget is shown below:

	FY 2003-2004	FY 2004-2005
Unappropriated Balance		
Remaining from FY 2002-2003	103,885	0
Beginning Unreserved Credit Balance	375,000,000	0
Revenues Based on Existing Tax Structure	13,384,600,000	14,203,713,917
Nontax Revenues		
Investment Income	113,900,000	132,056,801
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund/Sales Tax on Vehicles		
Reimbursement Transfer	252,422,125	231,774,330
Highway Fund Transfer	16,379,000	16,166,400
Subtotal Nontax Revenues	788,171,125	798,427,531
Total General Fund Availability	14,547,875,010	15,002,141,448
Adjustments to Availability: 2003 Session		

1	Maintain Sales Tax Rate at 4.5%	346,500,000	388,200,000
2	Maintain Top Income Tax Bracket at 8.25%	37,500,000	92,700,000
3	Delay Increase in the Child Tax Credit	20,300,000	54,100,000
4	Conform to Federal Definition of		
5	Child for State Child Tax Credit	16,800,000	17,000,000
6	Delay Increase in Standard Deduction		
7	(Marriage Penalty)	33,400,000	47,000,000
8	Equalize Insurance Tax Rate		
9	on Article 65 Corporations	19,300,000	14,700,000
10	Conform to Streamline Sales Tax Provision		
11	(Candy, Soft Drinks, Prepared Food &		
12	Modified Software)	30,200,000	30,600,000
13	Tax Soft Drinks in Vending Machines		
14	at 50% of General Rate	(4,700,000)	(4,700,000)
15	Restore Use Tax Line on Individual Returns	3,100,000	3,100,000
16	Revenue: Project Tax Collect	10,000,000	10,000,000
17	Revenue: Project Compliance	38,340,500	74,009,500
18	Divert MSA Settlement Proceeds		
19	from Tobacco Trust Fund	30,000,000	30,000,000
20	Divert MSA Settlement Proceeds		
21	from Health & Wellness Trust Fund	10,000,000	10,000,000
22	Fee Increases	4,959,418	4,959,418
23	Adjust Transfer from		
24	Insurance Regulatory Fund	2,942,777	(207,827)
25	Credit to Repairs & Renovations		
26	Reserve Account	(50,000,000)	0
27	Credit to Savings Reserve Account	(19,089,038)	0
28			
29	Subtotal Adjustments to Availability:		
30	2003 Session	529,553,657	771,461,091
31			
32	Revised General Fund Availability	15,077,428,667	15,773,602,539
33			
34	Less: Total General Fund Appropriations	(15,077,428,667)	(15,773,602,539)
35			
36	Unappropriated Balance Remaining	0	0
37			

38 **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited
39 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
40 Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum
41 of thirty million dollars (\$30,000,000) shall be transferred from the Department of
42 Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the
43 State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to
44 support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

45 **SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited
46 to the Health Trust Account from the Master Settlement Agreement during the
47 2003-2004 and 2004-2005 fiscal years, the sum of ten million dollars (\$10,000,000) that
48 would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c)
49 shall be transferred from the Department of State Treasurer, Budget Code 23460
50 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax
51 Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for
52 the 2003-2004 and 2004-2005 fiscal years.

53 **SECTION 2.2.(d)** On July 1, 2003, the State Controller shall transfer one
54 hundred eight million seven hundred ninety-six thousand eight hundred forty-five
55 dollars (\$108,796,845) from the Disaster Reserve Fund, Budget Code 13017, to the

1 Savings Reserve Account, in accordance with Section 3.1 of S.L. 1999-463, Extra
2 Session 1999. This is not an "appropriation made by law", as that phrase is used in
3 Article V, Section 7(1) of the Constitution.

4 **SECTION 2.2.(e)** When the Highway Trust Fund was created in 1989, the
5 revenue from the sales tax on motor vehicles was transferred from the General Fund to
6 the Highway Trust Fund. To offset this loss of revenue from the General Fund, the
7 Highway Trust Fund was required to transfer one hundred seventy million dollars
8 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989
9 from the sales tax on motor vehicles. This transfer did not, however, make the General
10 Fund whole after the transfer of the sales tax revenue because no provision has been
11 made to adjust the amount for the increased volume of transactions and increased
12 vehicle prices. The additional funds transferred from the Highway Trust Fund to the
13 General Fund by this act is an effort to recover a portion of the sales tax revenues that
14 would have gone to the General Fund over the last 14 years.

15 Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred from the
16 Highway Trust Fund to the General Fund for each of the fiscal years 2003-2004 and
17 2004-2005 is two hundred fifty million dollars (\$250,000,000). The sum to be
18 transferred to the General Fund for the 2004-2005 fiscal year shall be adjusted to reflect
19 the scheduled repayment of previously transferred funds in accordance with Section
20 26.14 of S.L. 2002-126.

21 Any funds transferred from the Highway Trust Fund to the General Fund in
22 this act in addition to the transfer authorized by G.S. 105-187.9(b) shall be fully repaid
23 to the Highway Trust Fund, including interest at the net rate of return generated by the
24 State Treasurer's Short Term Investment Fund.

25 **SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the
26 State Controller shall transfer only nineteen million eighty-nine thousand thirty-eight
27 dollars (\$19,089,038) from the unreserved credit balance to the Savings Reserve
28 Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is
29 used in Article V, Section 7(1) of the Constitution. This subsection becomes effective
30 June 30, 2003.

31 **SECTION 2.2.(g)** Notwithstanding G.S. 147-86.30(c), the Health and
32 Wellness Trust Fund Commission may expend the balance of funds remaining from
33 funds transferred from the Fund Reserve to the Health and Wellness Trust Fund
34 nonreserved funds in the 2002-2003 fiscal year pursuant to Section 2.2(h) of S.L.
35 2002-126. These funds shall be expended in accordance with G.S. 147-86.30(d) during
36 the 2003-2005 fiscal biennium.

37 **SECTION 2.2.(h)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
38 State Controller shall transfer fifty million dollars (\$50,000,000) from the unreserved
39 credit balance to the Repairs and Renovations Reserve Account on June 30, 2003. This
40 subsection becomes effective June 30, 2003.

41 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

42 Requested by: Senators Garrou, Dalton, Hagan

43 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

44 **SECTION 3.1.** Appropriations from the State Highway Fund for the
45 maintenance and operation of the Department of Transportation, and for other purposes
46 as enumerated, are made for the biennium ending June 30, 2005, according to the
47 following schedule:
48
49

50	51 Current Operations – Highway Fund	52 2003-2004	53 2004-2005
54	(1) Transportation Admin. (84210)	72,825,987	72,948,211
55	(2) Transportation Operations (84220)	28,190,393	28,150,605
	(3) Transportation programs (84230)		
	State Construction		

1	Secondary	89,600,000	90,590,000
2	Urban	28,000,000	14,000,000
3	Public access	2,000,000	2,000,000
4	Spot safety	9,100,000	9,100,000
5	Contingency	15,000,000	10,000,000
6	Federal Aid Match	4,160,000	4,280,000
7	Maintenance	579,757,883	570,231,046
8	Asphalt plant/OSHA	425,000	425,000
9	Capital	-	
10	Ferry Operations	19,677,283	19,677,283
11	Aid to municipalities	89,600,000	90,590,000
12	Rail	15,090,919	15,531,153
13	Public transit	79,705,266	80,302,926
14	(4) Governor's highway safety (84240)	292,449	293,118
15	(5) Transportation regulation (84260)	100,255,703	100,323,363
16	(6) Reserves, transfers, other agencies (84270)	217,249,117	224,514,347
17	TOTAL	1,350,930,000	1,332,957,052

18
19 Requested by: Senators Garrou, Dalton, Hagan

20 **HIGHWAY FUND AVAILABILITY STATEMENT**

21 **SECTION 3.2.** The Highway Fund availability used in developing the
22 2003-2005 biennial budget is shown below:

23	Highway Fund Budget Reform Statement	2003-2004	2004-2005
24	Beginning Credit Balance		-
25	Estimated Revenue	\$ 1,350,930,000	\$ 1,373,080,000
26	Estimated Reversions		-
27	Total Highway Fund Availability	\$ 1,350,930,000	\$ 1,373,080,000

28
29
30
31 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

32 Requested by: Senators Garrou, Dalton, Hagan

33 **HIGHWAY TRUST FUND APPROPRIATIONS**

34 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
35 maintenance and operation of the Department of Transportation, and for other purposes
36 as enumerated, are made for the biennium ending June 30, 2005, according to the
37 following schedule:

38	Current Operations – Highway Trust Fund	2003-2004	2004-2005
39	Intrastate System	\$ 422,754,783	\$ 459,363,570
40	Urban Loops	170,944,428	185,747,496
41	Aid to Municipalities	44,356,838	48,197,953
42	Total for Secondary Roads	79,559,266	84,350,953
43	Program Administration	40,001,560	39,636,698
44	Transfer to General Fund	252,422,125	231,774,330
45	GRAND TOTAL CURRENT OPERATIONS		
46	AND EXPANSION	\$1,010,039,000	\$1,049,071,000

47
48
49 **PART V. BLOCK GRANTS**

50 Requested by: Senators Purcell, Reeves , Garrou, Dalton, Hagan

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

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

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

SOCIAL SERVICES BLOCK GRANT

01.	County departments of social services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging – Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation – United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services –	

1	Easter Seals Society	116,779
2		
3	15. UNC-CH CARES Program for training and	
4	consultation services	247,920
5		
6	16. Office of the Secretary – Office of Economic	
7	Opportunity for N.C. Senior Citizens'	
8	Federation for outreach services to	
9	low-income elderly persons	41,302
10		
11	17. Division of Social Services – Child	
12	Caring Agencies	1,500,000
13		
14	18. Division of Mental Health,	
15	Developmental Disabilities, and	
16	Substance Abuse Services – Developmentally	
17	Disabled Waiting List for services	5,000,000
18		
19	19. Transfer to Preventive Health Services Block	
20	Grant for HIV/AIDS education, counseling, and	
21	testing	145,819
22		
23	20. Division of Facility Services –	
24	Mental Health Licensure	213,128
25		
26	21. Transfer to the Office of the Secretary –	
27	N.C. Inter-agency Council for Coordinating	
28	Homeless Programs	150,000
29		
30	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 54,775,307
31		
32	LOW-INCOME ENERGY BLOCK GRANT	
33		
34	01. Energy Assistance Programs	\$ 12,775,323
35		
36	02. Crisis Intervention	9,192,927
37		
38	03. Administration	2,957,339
39		
40	04. Weatherization Program	4,212,740
41		
42	05. Department of Administration –	
43	N.C. State Commission of Indian Affairs	54,840
44		
45	06. Heating Air Repair and Replacement Program	1,966,153
46		
47	TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 31,159,322
48		
49	MENTAL HEALTH SERVICES BLOCK GRANT	
50		
51	01. Provision of community-based	
52	services for severe and persistently	
53	mentally ill adults	\$ 4,546,916
54		
55	02. Provision of community-based	

1	services to children	2,513,141
2		
3	03. Comprehensive Treatment Services	
4	Program for Children	1,500,000
5		
6	04. Group Home Tracking System	986,600
7		
8	05. Administration	693,193
9		
10	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 10,239,850
11		
12	SUBSTANCE ABUSE PREVENTION	
13	AND TREATMENT BLOCK GRANT	
14		
15	01. Provision of community-based	
16	alcohol and drug abuse services,	
17	tuberculosis services, and services	
18	provided by the Alcohol and Drug Abuse	
19	Treatment Centers	\$ 18,901,711
20		
21	02. Continuation of services for	
22	pregnant women and women	
23	with dependent children	8,069,524
24		
25	03. Continuation of services to	
26	IV drug abusers and others at risk	
27	for HIV diseases	4,616,378
28		
29	04. Provision of services to children	
30	and adolescents	7,740,611
31		
32	05. Juvenile Services – Family Focus	851,156
33		
34	06. Allocation to the Division of Public Health	
35	for HIV/STD Risk Reduction Projects	383,980
36		
37	07. Allocation to the Division of Public Health	
38	for HIV/STD Prevention by County Health	
39	Departments	209,576
40		
41	08. Allocation to the Division of Public Health	
42	for the Maternal and Child Health Hotline	37,779
43		
44	09. Administration	2,596,307
45		
46	TOTAL SUBSTANCE ABUSE PREVENTION	
47	AND TREATMENT BLOCK GRANT	\$ 43,407,022
48		
49	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
50		
51	01. Child care subsidies	\$154,713,475
52		
53	02. Quality and availability initiatives	16,449,256
54		
55	03. Administrative expenses	6,969,533

1		
2	04.	Transfer from TANF Block Grant for
3		child care subsidies
4		79,562,189
5	TOTAL CHILD CARE AND DEVELOPMENT FUND	
6	BLOCK GRANT	
7		\$257,694,453
8	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
9	(TANF) BLOCK GRANT	
10		
11	01.	Work First Cash Assistance
12		\$129,396,275
13	02.	Work First County Block Grants
14		94,653,315
15	03.	Transfer to the Child Care and
16		Development Fund Block Grant
17		for child care subsidies
18		79,562,189
19	04.	Child Care Subsidies for TANF Recipients
20		26,621,241
21	05.	Child Welfare Workers for local DSS
22		11,452,391
23	06.	Transfer to Social Services Block Grant for
24		County Departments of Social Services for
25		Children's Services
26		4,500,000
27	07.	Support Our Students – Department of
28		Juvenile Justice and Delinquency
29		Prevention
30		1,925,000
31	08.	Residential Substance Abuse Services
32		for Women With Children
33		2,000,000
34	09.	Domestic Violence Services
35		for Work First Families
36		1,200,000
37	10.	After-School Services for
38		At-Risk Children
39		1,925,000
40	11.	Division of Social Services –
41		Administration
42		400,000
43	12.	Child Welfare Training
44		1,600,000
45	13.	TANF Automation Projects
46		592,500
47	14.	Work First/Boys and Girls Clubs
48		1,000,000
49	15.	Work Central Career Advancement Center
50		550,000
51	16.	WCH-Teen Pregnancy Prevention
52		1,500,000
53	17.	Transfer to Social Services Block Grant for Child Caring
54		Institutions
55		1,500,000

1	18.	Special Children's Adoption Fund	2,000,000
2			
3	19.	NC Fast Implementation	630,000
4			
5	20.	Maternity Homes	838,000
6			
7	21.	Pregnancy Prevention Coalition of North Carolina	127,500
8			
9	22.	Individual Development Accounts	180,000
10			
11	23.	Reduction of Out-of-Wedlock Births	1,000,000
12			
13	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
14	(TANF) BLOCK GRANT		\$365,153,411
15			
16	MATERNAL AND CHILD HEALTH BLOCK GRANT		
17			
18	01.	Healthy Mothers/Healthy Children	
19		Block Grants to Local Health	
20		Departments	9,838,074
21			
22	02.	High-Risk Maternity Clinic Services,	
23		Perinatal Education and Training,	
24		Childhood Injury Prevention,	
25		Public Information and Education, and	
26		Technical Assistance to Local Health	
27		Departments	2,307,918
28			
29	03.	Services to Children With Special Health	
30		Care Needs	5,078,647
31			
32	TOTAL MATERNAL AND CHILD		
33	HEALTH BLOCK GRANT		\$ 17,224,639
34			
35	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
36			
37	01.	Statewide Health Promotion Programs	\$3,132,810
38			
39	02.	Rape Crisis/Victims' Services	
40		Program – Council for Women	197,112
41			
42	03.	Transfer from Social Services	
43		Block Grant – HIV/AIDS education,	
44		counseling, and testing	145,819
45			
46	04.	Office of Minority Health	159,459
47			
48	05.	Administrative Costs	108,546
49			
50	06.	Osteoporosis Task Force Activities	150,000
51			
52	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,893,746
53			

SECTION 5.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant

1 below the amounts appropriated in this section, then the Department of Health and
2 Human Services shall allocate these decreases giving priority first to those direct
3 services mandated by State or federal law, then to those programs providing direct
4 services that have demonstrated effectiveness in meeting the federally and
5 State-mandated services goals established for the Social Services Block Grant. The
6 Department shall not include transfers from TANF for specified purposes in any
7 calculations of reductions to the Social Services Block Grant.

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

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

19 **SECTION 5.1.(c)** Increases in Federal Fund Availability. – Any block grant
20 funds appropriated by the United States Congress in addition to the funds specified in
21 this act shall be expended by the Department of Health and Human Services, with the
22 approval of the Office of State Budget and Management, provided the resultant
23 increases are in accordance with federal block grant requirements and are within the
24 scope of the block grant plan approved by the General Assembly.

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

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

35 **SECTION 5.1.(f)** If federal funds are received under the Maternal and Child
36 Health Block Grant for abstinence education, pursuant to section 912 of Public Law
37 104-193 (42 U.S.C. § 710), for the 2003-2004 fiscal year, then those funds shall be
38 transferred to the State Board of Education to be administered by the Department of
39 Public Instruction. The Department of Public Instruction shall use the funds to establish
40 an Abstinence Until Marriage Education Program and shall delegate to one or more
41 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The
42 Department of Public Instruction shall carefully and strictly follow federal guidelines in
43 implementing and administering the abstinence education grant funds.

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

51 **SECTION 5.1.(g)** The sum of four hundred thousand dollars (\$400,000)
52 appropriated in this section to the Department of Health and Human Services in the
53 Child Care and Development Fund Block Grant shall be used to develop and implement
54 a Medical Child Care Pilot open to children throughout the State.

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

4 **SECTION 5.1.(i)** The sum of four hundred thousand dollars (\$400,000)
5 appropriated in this section in the TANF Block Grant to the Department of Health and
6 Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be
7 used to support administration of TANF-funded programs.

8 **SECTION 5.1.(j)** The sum of two million dollars (\$2,000,000) appropriated
9 in this section in the TANF Block Grant to the Department of Health and Human
10 Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
11 Services, for the 2003-2004 fiscal year shall be used to provide regional residential
12 substance abuse treatment and services for women with children. The Department of
13 Health and Human Services, Division of Social Services and Division of Mental Health,
14 Developmental Disabilities, and Substance Abuse Services, in consultation with local
15 departments of social services, area mental health programs, and other State and local
16 agencies or organizations, shall coordinate this effort in order to facilitate the expansion
17 of regionally based substance abuse services for women with children. These services
18 shall be culturally appropriate and designed for the unique needs of TANF women with
19 children.

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

23 The Department of Health and Human Services, Division of Social Services
24 and Division of Mental Health, Developmental Disabilities, and Substance Abuse
25 Services, shall report on its progress in complying with this subsection no later than
26 October 1, 2003, and March 1, 2004, to the Senate Appropriations Committee on Health
27 and Human Services, the House of Representatives Appropriations Subcommittee on
28 Health and Human Services, and the Fiscal Research Division. These reports shall
29 include all of the following:

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

45 **SECTION 5.1.(k)** The sum of one million nine hundred twenty-five
46 thousand dollars (\$1,925,000) appropriated in this section in the TANF Block Grant to
47 the Department of Health and Human Services and transferred to the Department of
48 Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year shall be used
49 to support the existing Support Our Students Program and to expand the Program
50 statewide, focusing on low-income communities in unserved areas. These funds shall
51 not be used for administration of the Program.

52 **SECTION 5.1.(l)** The sum of one million two hundred thousand dollars
53 (\$1,200,000) appropriated under this section in the TANF Block Grant to the
54 Department of Health and Human Services, Division of Social Services, for the
55 2003-2004 fiscal year shall be used to provide domestic violence services to Work First

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

7 Each county department of social services and the local domestic violence
8 shelter program serving the county shall jointly develop a plan for utilizing these funds.
9 The plan shall include the services to be provided and the manner in which the services
10 shall be delivered. The county plan shall be signed by the county social services director
11 or the director's designee and the domestic violence program director or the director's
12 designee and submitted to the Division of Social Services by December 1, 2003. The
13 Division of Social Services, in consultation with the Council for Women, shall review
14 the county plans and shall provide consultation and technical assistance to the
15 departments of social services and local domestic violence shelter programs, if needed.

16 The Division of Social Services shall allocate these funds to county
17 departments of social services according to the following formula: (i) each county shall
18 receive a base allocation of five thousand dollars (\$5,000) and (ii) each county shall
19 receive an allocation of the remaining funds based on the county's proportion of the
20 statewide total of the Work First caseload as of July 1, 2003, and the county's proportion
21 of the statewide total of the individuals receiving domestic violence services from
22 programs funded by the Council for Women as of July 1, 2003. The Division of Social
23 Services may reallocate unspent funds to counties that submit a written request for
24 additional funds.

25 The Department of Health and Human Services shall report on the uses of
26 these funds no later than March 1, 2004, to the Senate Appropriations Committee on
27 Health and Human Services, the House of Representatives Appropriations
28 Subcommittee on Health and Human Services, and the Fiscal Research Division.

29 **SECTION 5.1.(m)** The sum of one million nine hundred twenty-five
30 thousand dollars (\$1,925,000) appropriated in this section in the TANF Block Grant to
31 the Department of Health and Human Services, Division of Social Services, shall be
32 used to expand after-school programs and services for at-risk children. The Department
33 shall develop and implement a grant program to award grants to community-based
34 programs that demonstrate the ability to reach children at risk of teen pregnancy and
35 school dropout. The Department shall award grants to community-based organizations
36 that demonstrate the ability to develop and implement linkages with local departments
37 of social services, area mental health programs, schools, and other human services
38 programs in order to provide support services and assistance to the child and family.
39 These funds may be used to establish one position within the Division of Social
40 Services to coordinate at-risk after-school programs and shall not be used for other State
41 administration. The Department shall report no later than March 1, 2004, on its progress
42 in complying with this section to the Senate Appropriations Committee on Health and
43 Human Services, the House of Representatives Subcommittee on Health and Human
44 Services, and the Fiscal Research Division.

45 **SECTION 5.1.(n)** The sum of eleven million four hundred fifty-two
46 thousand three hundred ninety-one dollars (\$11,452,391) appropriated in this section in
47 the TANF Block Grant to the Department of Health and Human Services, Division of
48 Social Services, for the 2003-2004 fiscal year for Child Welfare Improvements shall be
49 allocated to the county departments of social services for hiring or contracting staff to
50 investigate and provide services in Child Protective Services cases; to provide foster
51 care and support services; to recruit, train, license, and support prospective foster and
52 adoptive families; and to provide interstate and post-adoption services for eligible
53 families.

54 **SECTION 5.1.(o)** The sum of one million five hundred thousand dollars
55 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the

1 Department of Health and Human Services, Division of Mental Health, Developmental
2 Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum
3 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
4 section in the Social Services Block Grant to the Department of Health and Human
5 Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to
6 continue a Comprehensive Treatment Services Program for Children in accordance with
7 Section 21.60 of S.L. 2001-424, as amended.

8 **SECTION 5.1.(p)** The sum of one million six hundred thousand dollars
9 (\$1,600,000) appropriated in this section in the TANF Block Grant to the Department of
10 Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall
11 be used to support various child welfare training projects as follows:

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

17 **SECTION 5.1.(q)** If funds appropriated through the Child Care and
18 Development Fund Block Grant for any program cannot be obligated or spent in that
19 program within the obligation or liquidation periods allowed by the federal grants, the
20 Department may move funds to child care subsidies, unless otherwise prohibited by
21 federal requirements of the grant, in order to use the federal funds fully.

22 **SECTION 5.1.(r)** The sum of eight hundred thirty-eight thousand dollars
23 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
24 Health and Human Services shall be used to purchase services at maternity homes
25 throughout the State.

26 **SECTION 5.1.(s)** The sum of two million dollars (\$2,000,000) appropriated
27 in this section in the TANF Block Grant to the Department of Health and Human
28 Services, Special Children Adoption Fund, for the 2003-2004 fiscal year shall be used
29 to implement this subsection. The Division of Social Services, in consultation with the
30 North Carolina Association of County Directors of Social Services and representatives
31 of licensed private adoption agencies, shall develop guidelines for the awarding of funds
32 to licensed public and private adoption agencies upon the adoption of children described
33 in G.S. 108A-50 and in foster care. Payments received from the Special Children
34 Adoption Fund by participating agencies shall be used exclusively to enhance the
35 adoption services program. No local match shall be required as a condition for receipt of
36 these funds.

37 **SECTION 5.1.(t)** The sum of one million five hundred thousand dollars
38 (\$1,500,000) appropriated in this act in the TANF Block Grant and transferred to the
39 Social Services Block Grant to the Department of Health and Human Services, Division
40 of Social Services, for child caring agencies for the 2003-2004 fiscal year shall be
41 allocated to the State Private Child Caring Agencies Fund. These funds shall be
42 combined with all other funds allocated to the State Private Child Caring Agencies Fund
43 for the reimbursement of the State's portion of the cost of care for the placement of
44 certain children by the county departments of social services who are not eligible for
45 federal IV-E funds. These funds shall not be used to match other federal funds.

46 **SECTION 5.1.(u)** The sum of one million dollars (\$1,000,000) appropriated
47 in this section to the Department of Health and Human Services in the TANF Block
48 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.
49 The Department of Health and Human Services, in accordance with federal regulations
50 for the use of TANF Block Grant funds, shall administer a grant program to award
51 funds to the Boys and Girls Clubs across the State in order to implement programs that
52 improve the motivation, performance, and self-esteem of youths and to implement other
53 initiatives that would be expected to reduce school dropout and teen pregnancy rates.
54 The Department shall encourage and facilitate collaboration between the Boys and Girls

1 Clubs and Support Our Students, Communities in Schools, and similar programs to
 2 submit joint applications for the funds if appropriate.

3
 4 Requested by: Senators Weinstein, Metcalf, Queen, Dalton , Garrou, Hagan

5 **NER BLOCK GRANT FUNDS**

6 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made
 7 for the fiscal year ending June 30, 2004, according to the following schedule:

8
 9 **COMMUNITY DEVELOPMENT BLOCK GRANT**

10	01. State Administration	\$1,000,000
11		
12	02. Urgent Needs and Contingency	1,000,000
13		
14	03. Scattered Site Housing	13,200,000
15		
16	04. Economic Development	8,710,000
17		
18	05. Community Revitalization	13,500,000
19		
20	06. State Technical Assistance	450,000
21		
22	07. Housing Development	2,000,000
23		
24	08. Infrastructure	5,140,000
25		
26		

27 **TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT –**
 28 **2004 Program Year** \$45,000,000

29
 30 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds
 31 are reduced below the amounts specified above after the effective date of this act, then
 32 every program in each of these federal block grants shall be reduced by the same
 33 percentage as the reduction in federal funds.

34 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community
 35 Development Block Grant. – Any block grant funds appropriated by the Congress of the
 36 United States in addition to the funds specified in this section shall be expended as
 37 follows: Each program category under the Community Development Block Grant shall
 38 be increased by the same percentage as the increase in federal funds.

39 **SECTION 5.2.(d)** Limitations on Community Development Block Grant
 40 Funds. – Of the funds appropriated in this section for the Community Development
 41 Block Grant, the following shall be allocated in each category for each program year:
 42 up to one million dollars (\$1,000,000) may be used for State administration; not less
 43 than fifty thousand dollars (\$50,000) may be used for Urgent Needs and Contingency;
 44 up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for
 45 Scattered Site Housing; up to ten million nine hundred sixty thousand dollars
 46 (\$10,960,000) may be used for Economic Development, including Urban
 47 Redevelopment grants; not less than twelve million two hundred thousand dollars
 48 (\$12,200,000) shall be used for Community Revitalization; up to four hundred fifty
 49 thousand dollars (\$450,000) may be used for State Technical Assistance; up to two
 50 million dollars (\$2,000,000) may be used for Housing Development; up to five million
 51 one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If
 52 federal block grant funds are reduced or increased by the Congress of the United States
 53 after the effective date of this act, then these reductions or increases shall be allocated in
 54 accordance with subsection (b) or (c) of this section, as applicable.

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

7 **SECTION 5.2.(f)** Up to four million dollars (\$4,000,000) of funds for
8 Economic Development may be used for Urgent Needs and Contingency for drought
9 recovery.

10 **SECTION 5.2.(g)** Department of Commerce Demonstration Grants in
11 Partnership with Rural Economic Development Center, Inc. – The Department of
12 Commerce, in partnership with the Rural Economic Development Center, Inc., shall
13 award up to two million two hundred fifty thousand dollars (\$2,250,000) in
14 demonstration grants to local governments in very distressed rural areas of the State.
15 These grants shall be used to address critical infrastructure and entrepreneurial needs
16 and to provide small business assistance.

17 **SECTION 5.2.(h)** The Department of Commerce shall, in consultation with
18 local government officials and the University of North Carolina School of Government,
19 design a regional distribution system for making grants in the Community
20 Revitalization category in program year 2005. The system shall take into account the
21 relative lower income, poverty, and housing conditions in every region, target the most
22 critical needs, and ensure that local governments in every region have equal and fair
23 access to these funds.

24 25 **PART VI. GENERAL PROVISIONS**

26
27 Requested by: Senators Garrou, Dalton, Hagan
28 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS,**
29 **AND AUTHORIZATION FOR EXPENDITURES**

30 **SECTION 6.1.** There is appropriated out of the cash balances, federal
31 receipts, and departmental receipts available to each department, sufficient amounts to
32 carry on authorized activities included under each department's operations. All these
33 cash balances, federal receipts, and departmental receipts shall be expended and
34 reported in accordance with provisions of the Executive Budget Act, except as
35 otherwise provided by statute, and shall be expended at the level of service authorized
36 by the General Assembly. If the receipts, other than gifts and grants that are
37 unanticipated and are for a specific purpose only, collected in a fiscal year by an
38 institution, department, or agency exceed the receipts certified for it in General Fund
39 Codes or Highway Fund Codes, then the Director of the Budget shall decrease the
40 amount he allots to that institution, department, or agency from appropriations from that
41 Fund by the amount of the excess, unless the Director of the Budget finds that the
42 appropriations from the Fund are necessary to maintain the function that generated the
43 receipts at the level anticipated in the certified Budget Codes for that Fund.

44 Funds that become available from overrealized receipts in General Fund
45 Codes and Highway Fund Codes may be used for new permanent employee positions or
46 to raise the salary of existing employees only as follows:

- 47 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- 48 (2) If the Director of the Budget finds that the new permanent employee
49 positions are necessary to maintain the function that generated the
50 receipts at the level anticipated in the certified budget codes for that
51 Fund. The Director of the Budget shall notify the President Pro
52 Tempore of the Senate, the Speakers of the House of Representatives,
53 the Chairs of the Appropriations Committees of the Senate and the
54 House of Representatives, and the Fiscal Research Division of the
55 Legislative Services Office that he intends to make such a finding at

1 least 10 days before he makes the finding. The notification shall set out
2 the reason the positions are necessary to maintain the function.

3 The Office of State Budget and Management shall report to the Joint
4 Legislative Commission on Governmental Operations and to the Fiscal Research
5 Division of the Legislative Services Office within 30 days after the end of each quarter
6 the General Fund Codes or Highway Fund Codes that did not result in a corresponding
7 reduced allotment from appropriations from that Fund.

8 This section shall expire June 30, 2004.
9

10 Requested by: Senators Garrou, Dalton, Hagan

11 **NO EXPENDITURE OF UNBUDGETED RECEIPTS**

12 **SECTION 6.2.** Effective July 1, 2004, G.S. 143-27 reads as rewritten:

13 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**
14 **are in addition to receipts by them.**

15 All appropriations now or hereafter made to the educational institutions, and to the
16 charitable and correctional institutions, and to such other departments and agencies of
17 the State as receive moneys available for expenditure by them are declared to be in
18 addition to such receipts of said institutions, departments or agencies, and are to be
19 available as and to the extent that such receipts are insufficient to meet the costs
20 anticipated in the budget authorized by the General Assembly, of maintenance of such
21 institutions, departments, and agencies; Provided, however, that if the receipts, other
22 than gifts and grants that are unanticipated and are for a specific purpose only, collected
23 in a fiscal year by an institution, department, or agency exceed the receipts certified for
24 it in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, the Director
25 of the Budget shall decrease the amount he allots to that institution, department, or
26 agency from appropriations from that Fund by the amount of the excess, ~~unless the~~
27 ~~Director of the Budget has consulted with the Joint Legislative Commission on~~
28 ~~Governmental Operations and unless the Director of the Budget finds that (i) the~~
29 ~~appropriations from that Fund are necessary to maintain the function that generated the~~
30 ~~receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the~~
31 ~~funds may be expended in accordance with G.S. 143-23.excess.~~ Notwithstanding the
32 foregoing provisions of this section, receipts within The University of North Carolina
33 realized in excess of budgeted levels shall be available, up to a maximum of ten percent
34 (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to
35 support the operations generating such receipts, as approved by the Director of the
36 Budget.

37 The Office of State Budget and Management shall report to the Joint Legislative
38 Commission on Governmental Operations and to the Fiscal Research Division of the
39 Legislative Services Office within 30 days after the end of each quarter on expenditures
40 of receipts in excess of the amounts certified in General Fund Codes, Highway Fund
41 Codes, or Wildlife Fund Codes, that did not result in a corresponding reduced allotment
42 from appropriations from that Fund."
43

44 Requested by: Senators Garrou, Dalton, Hagan

45 **BUDGET DIRECTOR TO REVIEW PRACTICES**

46 **SECTION 6.2A.(a)** The Office of State Budget and Management, in
47 consultation with the State Controller, shall conduct a review and evaluation of current
48 practices relative to the following issues:

- 49 (1) The proliferation of nonreverting funds and accounts.
- 50 (2) The designation of selected funds as "off-budget".
- 51 (3) The sources of authority, consistent with Article V, Section 7(1) of the
52 Constitution, under which expenditures are being made from each
53 special fund, trust fund, internal service fund, or enterprise fund.

- 1 (4) The proper classification and management of funds as special funds,
2 trust funds, internal service funds, or enterprise funds consistent with
3 criteria adopted by the Governmental Accounting Standards Board.
4 (5) Appropriate budget planning within special funds, trust funds, internal
5 service funds, and enterprise funds, including, in particular, the
6 accurate projection of receipts, expenditures, and fund balances and
7 the presentation of that information for legislative review and
8 appropriation action.
9 (6) The administration of G.S. 143-27, which requires in part that the over
10 collection of departmental receipts be accompanied by a corresponding
11 reduction in the allotments to institutions, departments, and agencies.

12 **SECTION 6.2A.(b)** Where the review and evaluation reveals problems or
13 other failures, the Office of State Budget and Management shall report its findings and
14 recommendations to the Chairs of the Appropriations Committees of the Senate and
15 House of Representatives as soon as practicable. In particular, the Office of State
16 Budget and Management shall transmit to the General Assembly a list of special funds
17 properly classified together with their estimated beginning balances, estimated receipts
18 and expenditures, and estimated ending balances, and a list of funds currently classified
19 as special funds for which the receipts are more appropriately reflected as offsets to total
20 requirements in General Fund budget codes. The list of special funds properly classified
21 should include funds currently classified as trust funds that are more appropriately
22 classified as special funds.

23
24 Requested by: Senators Garrou, Dalton, Hagan

25 **BUDGET CODE ADJUSTMENTS**

26 **SECTION 6.3.(a)** The Office of State Budget and Management shall
27 determine and prepare for each General Fund budget code such adjustments as may be
28 necessary to re-budget line items to reflect historical spending patterns and anticipated
29 revenues based on actual collections and to provide for more accurate budgeting of
30 salaries.

31 **SECTION 6.3.(b)** The Office of State Budget and Management shall report
32 the necessary adjustments to the General Assembly no later than 10 days after the
33 convening of the 2004 Regular Session of the 2003 General Assembly. The Director of
34 the Budget shall include the adjustments prepared in accordance with subsection (a) of
35 this section in the recommended adjustments to the authorized budget for the 2004-2005
36 fiscal year.

37
38 Requested by: Senators Garrou, Dalton, Hagan

39 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

40 **SECTION 6.4.** Funds in the amount of five million dollars (\$5,000,000) for
41 the 2003-2004 fiscal year and five million dollars (5,000,000) for the 2004-2005 fiscal
42 year are appropriated in this act to the Contingency and Emergency Fund. Of these
43 funds, no more than two hundred fifty thousand dollars (\$250,000) shall be expended
44 for statutory purposes other than those set out in G.S. 143-23(a1)(2). The remainder of
45 these funds shall be expended only for the purposes outlined in G.S. 143-23(a1)(2).

46
47 Requested by: Senators Garrou, Dalton, Hagan

48 **CHANGE EFFECTIVE DATE - PRIVATE PLATES ON PUBLIC VEHICLES**

49 **SECTION 6.5.(a)** The introductory language to Section 6.14(b) of S.L.
50 2001-424 reads as rewritten:

51 "**SECTION 6.14.(b)** Effective October 1, ~~2003~~, 2004, G.S. 20-39.1(b), as enacted
52 in subsection (a) of this section, reads as rewritten:"

53 **SECTION 6.5.(b)** Section 6.14(h) of S.L. 2001-424 reads as rewritten:

1 "SECTION 6.14.(h) Subsection (b) of this section becomes effective October 1,
2 ~~2003.~~ 2004. Except as provided in subsection (c) of this section, the remainder of this
3 section is effective when it becomes law."
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **HIPAA RESERVE**

7 **SECTION 6.6.** Funds in the amount of two million dollars (\$2,000,000) are
8 appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be
9 located in the Office of State Budget and Management.

10
11 Requested by: Senators Garrou, Dalton, Hagan, Purcell, Reeves

12 **HIPAA IMPLEMENTATION**

13 **SECTION 6.7.(a)** The Governor or the Governor's designee shall coordinate
14 the State's implementation of the federal Health Insurance Portability and
15 Accountability Act ("HIPAA"), Title II Subtitle F (Administrative Simplification).
16 Specifically, the scope of coordination shall include the following:

- 17 (1) Coordinating correspondence between the State and the United States
18 government on all matters relating to HIPAA Administrative
19 Simplification requirements under Subtitle F of Title II of HIPAA.
- 20 (2) Coordinating official State comments on proposed federal regulations
21 and the federal rule-making process pertaining to HIPAA
22 Administrative Simplification.
- 23 (3) Obtaining from the North Carolina Attorney General legal
24 interpretations of federal rules pertaining to HIPAA Administrative
25 Simplification compliance, implementation, and enforcement.
- 26 (4) Establishing deadlines and benchmarks for State agencies to provide
27 the necessary data required to monitor compliance with HIPAA
28 Administrative Simplification requirements.

29 The Information Resource Management Commission ("IRMC") shall
30 cooperate with the Governor to ensure that IRMC policies and activities and State
31 HIPAA implementation are complementary to ensure effective and efficient monitoring
32 of HIPAA Administrative Simplification requirements.

33 **SECTION 6.7.(b)** The University of North Carolina System and the
34 Teachers' and State Employees' Comprehensive Major Medical Plan may develop and
35 implement HIPAA Administrative Simplification compliance and shall report
36 bimonthly to the Governor on the status of implementation.

37 **SECTION 6.7.(c)** Funds appropriated to the Reserve to Implement HIPAA
38 that are unexpended and unencumbered at the end of the fiscal year shall not revert to
39 the General Fund but shall remain in the Reserve for use in accordance with the
40 purposes of the Reserve.
41

42 Requested by: Senators Swindell, Garrou, Dalton, Hagan

43 **STATE SURPLUS REAL PROPERTY SYSTEM**

44 **SECTION 6.8.(a)** The Department of Administration, in consultation with
45 the Office of State Budget and Management and other affected State departments, shall
46 develop and implement a uniform real property disposal system that will continuously
47 identify, evaluate, and dispose of all unused or underused State-owned land and
48 buildings. In order to comply with this section, the Department of Administration, in
49 consultation with the Office of State Budget and Management and other affected State
50 departments, shall do all of the following:

- 51 (1) Review the current inventory of State-owned land and buildings for
52 accuracy and completeness.
- 53 (2) Determine how and when State-owned land and buildings should be
54 declared surplus.

- 1 (3) Determine whether State agencies have the authority to retain funds
2 from the disposal of surplus real property and whether this is
3 consistent among agencies and conducive to the disposal of unneeded
4 property.
5 (4) Consider the use of private real estate brokers, auction, and any other
6 method determined to be suitable in order to efficiently and effectively
7 dispose of surplus real property.
8 (5) Review the real property held by a selected number of State agencies
9 to determine whether the agency has any property that meets the
10 criteria as set forth in this section.
11 (6) Assess the need for additional staff to effectively administer the
12 system.
13 (7) Examine current State law to assess the need for changes in order to
14 support a uniform system to identify, evaluate, and dispose of all
15 unused or underused State-owned land and buildings.

16 **SECTION 6.8.(b)** Prior to disposal of any property under the system, the
17 Department shall consider the following factors in making the analysis:

- 18 (1) The condition of the property;
19 (2) The extent to which it meets the purpose for which it was intended;
20 (3) The future needs of the Agency to perform the service intended at the
21 location;
22 (4) The best and most cost effective manner in which these future needs
23 can be serviced;
24 (5) The practicability of moving the function of the services performed at
25 a location to another area that might reduce acquisition, construction,
26 and labor cost without diminishing the quality of service;
27 (6) A recommendation as to whether a respective property should be (i)
28 sold or retained, (ii) renovated, (iii) expanded for future use, or (iv)
29 sold with a lease bond for a period not more than 10 years in order to
30 allow transition; and
31 (7) Other recommendations regarding use of the property.

32 These recommendations are by way of illustration and not by way of limitation.

33 **SECTION 6.8.(c)** The Department may retain consultants to assist the
34 accomplishment of the objectives set forth in subsection (a) of this section. The
35 Department shall report its findings and recommendations to the General Assembly no
36 later than March 1, 2004.

37
38 Requested by: Senators Swindell, Garrou, Dalton, Hagan

39 **EXPEDITE SALE OF SURPLUS LAND**

40 **SECTION 6.9.** The Department of Administration shall work with all State
41 departments, agencies, and institutions, including the Department of Transportation and
42 The University of North Carolina, to identify surplus state-owned real property and to
43 expedite the sale of that property or the sale and subsequent lease back of that property.
44 Unless otherwise provided by law, the clear proceeds of the sale of surplus real property
45 shall be credited to the General Fund. The Department of Administration shall report to
46 the Joint Legislative Commission on Governmental Operations no later than December
47 1, 2003, regarding the extraordinary measures being taken to comply with this
48 provision.

49
50 Requested by: Senators Garrou, Dalton, Hagan

51 **GOVERNMENT AGENCIES TO USE PRODUCTS OF RECYCLED STEEL**

52 **SECTION 6.10.(a)** G.S. 130A-309.14 is amended by adding a new
53 subsection to read:

54 "(l) Any State agency or agency of a political subdivision of the State that is using
55 State funds, or any person contracting with any agency with respect to work performed

1 under contract, shall procure products of recycled steel if all of the following conditions
2 are satisfied:

3 (1) The product must be acquired competitively within a reasonable time
4 frame.

5 (2) The product must meet appropriate performance standards.

6 (3) The product must be acquired at a reasonable price."

7 **SECTION 6.10.(b)** The Department of Administration shall report to the
8 Joint Legislative Commission on Governmental Operations on agencies' compliance
9 with this section.

10
11 Requested by: Senators Garrou, Dalton, Hagan

12 **JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS**

13 **SECTION 6.12.(a)** There is created a Joint Committee on Executive Budget
14 Act Revisions. The Committee shall be composed of 8 members, four of whom shall be
15 Representatives who are members of the Appropriations Committee appointed by the
16 Speaker of the House of Representatives and four of whom shall be Senators who are
17 members of the Appropriations Committee appointed by the President Pro Tempore of
18 the Senate. The Speaker of the House of Representatives shall designate one member as
19 cochair and the President Pro Tempore of the Senate shall designate one member as
20 cochair. The Committee shall meet upon call of the cochairs.

21 **SECTION 6.12.(b)** The Committee shall consider contemporary financial
22 management practices in reviewing the current budget process. The Committee shall
23 recommend any changes to the Executive Budget Act that are needed to modernize and
24 improve the processes of budget preparation, budget adoption, budget execution, and
25 program evaluation. The Committee shall report its recommendations to the 2003
26 General Assembly on or before April 1, 2004.

27 **SECTION 6.12.(c)** The Legislative Services Office shall assign professional
28 and clerical staff to assist the Committee in its work. Members of the Committee shall
29 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,
30 138-5, or 138-6, as appropriate.

31
32 Requested by: Senators Garrou, Dalton, Hagan

33 **ISSUE REQUEST FOR INFORMATION/ENERGY MANAGEMENT**

34 **SECTION 6.13.** The Department of Administration (Department) shall issue
35 a Request for Information (RFI) to identify companies interested in providing, and
36 qualified to provide, comprehensive energy management services to State departments,
37 agencies, and institutions. The Department shall evaluate information collected through
38 the RFI to determine the:

39 (1) Number of qualified companies interested in doing energy
40 management business with State government.

41 (2) Types of energy management services available and applicable to
42 State-owned facilities.

43 (3) Long-term cost savings potentially available to the State from the
44 implementation of various energy management services.

45 (4) Modifications to State law or regulations that may be necessary to
46 acquire and utilize successfully energy management services.

47 By May 1, 2004, the Department shall report its findings, conclusions, and
48 recommendations to the Chairs of the Senate and House of Representatives
49 Appropriations Committees.

50
51 Requested by: Senators Garrou, Dalton, Hagan

52 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

53 **SECTION 6.19.** All funds appropriated by this act into reserves may be
54 expended only for the purposes for which the reserves were established.
55

1 Requested by: Senators Hagan, Garrou, Dalton

2 **TRANSFER OF LAND FOR THE MILLENNIUM CAMPUSES OF**
3 **UNC-GREENSBORO AND NC A&T STATE UNIVERSITY**

4 **SECTION 6.20.** Notwithstanding G.S. 143-341(4)g. or any other provision
5 of law, the property currently allocated to the Department of Administration and
6 previously allocated to the Department of Health and Human Services for the Central
7 School for the Deaf at Greensboro is hereby reallocated to the Board of Governors of
8 The University of North Carolina. This property shall be used for the establishment of
9 Millennium Campuses of the University of North Carolina at Greensboro and North
10 Carolina Agricultural and Technical State University.

11
12 Requested by: Senators Hagan, Garrou, Dalton

13 **REVISE LAW ON NON-STATE ENTITY REPORTS ON USE OF STATE**
14 **FUNDS**

15 **SECTION 6.21.(a)** G.S. 143-6.1 reads as rewritten:

16 **"§ 143-6.1. Report on use of State funds by non-State entities.**

17 (a) Disbursement and Use of State Funds. – Every corporation, organization, and
18 institution that receives, uses, or expends any State funds shall use or expend the funds
19 only for the purposes for which they were appropriated by the General Assembly or
20 collected by the State. State funds include federal funds that flow through the State. For
21 the purposes of this section, the term "grantee" means a corporation, organization, or
22 institution that receives, uses, or expends any State funds. ~~The funds.~~

23 ~~The State may shall not disburse State funds appropriated by the General Assembly~~
24 ~~to any grantee or collected by the State for use by any grantee if unless that grantee has~~
25 ~~failed to provide any reports or financial information previously required by this~~
26 ~~section. In addition, before disbursing the funds, the Office of State Budget and~~
27 ~~Management may require the grantee to supply information demonstrating that the~~
28 ~~grantee is capable of managing the funds in accordance with law and has established~~
29 ~~adequate financial procedures and controls. grantee:~~

- 30 (1) Provides all reports and financial information required under this
31 section to the appropriate State agencies and officials; and
32 (2) Provides any additional information that the Office of State Budget
33 and Management deems necessary demonstrating that such grantee is
34 capable of managing the funds in accordance with law and has
35 established adequate financial procedures and controls.

36 All financial statements furnished to the State Auditor pursuant to this section, and
37 any audits or other reports prepared by the State Auditor, are public records.

38 (b) ~~State Agency Reports-Responsibilities.~~ – A State agency that receives State
39 funds and then disburses the State funds to a grantee ~~must identify the grantee to the~~
40 ~~State Auditor, unless the funds were for the purchase of goods and services. The State~~
41 ~~agency must submit shall:~~

- 42 (1) Submit documents to the State Auditor in a prescribed format
43 describing standards of compliance and suggested audit procedures
44 sufficient to give adequate direction to independent auditors
45 performing audits.
46 (2) Annually notify each grantee, in writing, of the reporting requirements
47 set forth in this section and that the State agency is not authorized to
48 disburse funds to grantees that fail to comply with the reporting
49 requirements for funds received during the prior fiscal year;
50 (3) Provide each grantee with the accounting form and other requirements
51 prescribed by the State Auditor.
52 (4) Submit a list to the State Auditor by October 31 each year of every
53 grantee to which the agency disbursed State funds in the prior fiscal
54 year, except when the funds were for purchases of goods and services,
55 the amount disbursed to each grantee and other such information as

1 required by the State Auditor to comply with the requirements set forth
2 in this section.

- 3 (5) Submit a list to the Office of State Budget and Management by
4 January 31 each year of every grantee to which the agency disbursed
5 State funds in the prior fiscal year except when the funds were for
6 purchases of goods and services and, for each grantee, whether that
7 grantee has filed the sworn accounting required by subsection (c) of
8 this section and whether the sworn accounting is in compliance with
9 subsection (c) of this section.

10 (c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or
11 expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars
12 (\$300,000) in State funds annually, except when the funds are for the purchase of goods
13 or services, must file annually with the State agency that disbursed the funds a sworn
14 accounting of receipts and expenditures of the State funds and a description of activities
15 and accomplishments undertaken by the grantee with State funds. This accounting must
16 be attested to by the treasurer of the grantee and one other authorizing officer of the
17 grantee. The accounting must be filed within ~~six months~~ 90 days after the end of the
18 grantee's fiscal year in which the State funds were received. The accounting shall be in
19 the form required by the State Auditor and provided to the grantee by the disbursing
20 agency. ~~Each State agency shall develop a format for these accountings and shall obtain~~
21 ~~the State Auditor's approval of the format.~~

22 (d) Grantee Audit Reports. – A grantee that receives, uses, or expends State
23 funds in the amount of three hundred thousand dollars (\$300,000) or more annually,
24 except when the funds are for the purchase of goods or services, must file annually with
25 the State Auditor a financial statement in the form and on the schedule prescribed by the
26 State Auditor. ~~These audit reports shall be filed no later than nine months after the close~~
27 ~~of the grantee's fiscal year.~~ The financial statement must be audited in accordance with
28 standards prescribed by the State Auditor to assure that State funds are used for the
29 purposes provided by law.

30 A grantee that receives, uses, or expends State funds in the amount of three hundred
31 thousand dollars (\$300,000) or more annually, except when the funds are for the
32 purchase of goods or services, must file annually with the State agency that disbursed
33 the funds a description of activities and accomplishments undertaken by the grantee
34 with State funds. This description must be filed within 90 days after end of the grantee's
35 fiscal year in which the State funds were received.

36 (d1) State Auditor's Responsibilities. – The State Auditor shall:

- 37 (1) Review each audit submitted pursuant to subsection (d) of this section
38 and determine that it has been conducted in accordance with generally
39 accepted audit standards and that the grantee has received a clean audit
40 opinion.
41 (2) Notify disbursing agencies by January 31 each year of all grantees that
42 are not in compliance with the reporting requirements set forth in this
43 section.
44 (3) Notify disbursing agencies of any material audit findings in the audits
45 of their grantees.
46 (4) Submit a list to the Office of State Budget and Management by
47 January 31 each year of every grantee that received State funds in the
48 prior fiscal year and, for each grantee, whether that grantee has
49 complied with this subsection.

50 (d2) Before a State agency disburses any funds for the fourth quarter of a fiscal
51 year, the agency shall, in consultation with the Office of State Budget and Management,
52 verify that the grantee has complied with the reporting requirements of this section. A
53 State agency shall not disburse funds during the fourth quarter of the fiscal year to any
54 grantee that has not complied with this section by March 31 of each year.

1 (d3) The Office of State Budget and Management shall report to the Joint
2 Legislative Commission on Governmental Operations and the Fiscal Research Division
3 by May 1 on all grantees that failed to comply with this section for the prior fiscal year,
4 the amount of State funds that were disbursed to each of those grantees during that
5 fiscal year, and the amount of State funds that were withheld.

6 (e) Federal Reporting Requirements. – Federal law may require a grantee to
7 make additional reports with respect to funds for which reports are required under this
8 section. Notwithstanding the provisions of this section, a grantee may satisfy the
9 reporting requirements of subsection (c) of this section by submitting a copy of the
10 report required under federal law with respect to the same funds or by submitting a copy
11 of the report described in subsection (d) of this section.

12 (f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article
13 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or
14 expends State funds. Such a grantee must, upon request, furnish to the State Auditor for
15 audit all books, records, and other information necessary for the State Auditor to
16 account fully for the use and expenditure of State funds. The grantee must furnish any
17 additional financial or budgetary information requested by the State Auditor."

18 **SECTION 6.21.(b)** G.S. 143-26 reads as rewritten:

19 **"§ 143-26. Director to have discretion as to manner of paying annual**
20 **appropriations.**

21 (a) Except as provided in subsection (b) of this section or as otherwise provided
22 by State or federal law, it shall be discretionary with the Director of the Budget whether
23 any annual appropriation shall be paid in monthly, quarterly or semiannual installments
24 or in a single payment.

25 (b) Except as otherwise provided by State or federal law, an annual appropriation
26 of ~~one hundred thousand dollars (\$100,000) or less~~ less than fifteen thousand dollars
27 (\$15,000) to or for the use of a nonprofit corporation shall be paid in a single annual
28 payment. An annual appropriation of ~~more than one hundred thousand dollars~~
29 ~~(\$100,000)~~ fifteen thousand dollars (\$15,000) or more to or for the use of a nonprofit
30 corporation shall be paid in quarterly or monthly installments, in the discretion of the
31 Director of the Budget."
32

33 **PART VII. PUBLIC SCHOOLS**

34
35 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

36 **TEACHER SALARY SCHEDULES**

37 **SECTION 7.1.(a)** Effective for the 2003-2004 school year, the Director of
38 the Budget shall transfer from the Reserve for Experience Step Salary Increase for
39 Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary
40 to implement the teacher salary schedule set out in subsection (b) of this section,
41 including funds for the employer's retirement and social security contributions and
42 funds for annual longevity payments at one and one-half percent (1.5%) of base salary
43 for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of
44 base salary for 15 to 19 years of State service, three and twenty-five hundredths percent
45 (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent
46 (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2003,
47 for all teachers whose salaries are supported from the State's General Fund. These
48 funds shall be allocated to individuals according to rules adopted by the State Board of
49 Education. The longevity payment shall be paid in a lump sum once a year.

50 **SECTION 7.1.(b)** For the 2003-2004 school year, the following monthly
51 salary schedules shall apply to certified personnel of the public schools who are
52 classified as teachers. The schedule contains 30 steps with each step corresponding to
53 one year of teaching experience.

54 2003-2004 MONTHLY SALARY SCHEDULE

55 "A" TEACHERS

	Years of Experience	"A" Teachers	NBPTS Certification
1			
2			
3	0	\$2,525	N/A
4	1	\$2,567	N/A
5	2	\$2,611	N/A
6	3	\$2,764	\$3,096
7	4	\$2,904	\$3,252
8	5	\$3,036	\$3,400
9	6	\$3,164	\$3,544
10	7	\$3,266	\$3,658
11	8	\$3,314	\$3,712
12	9	\$3,362	\$3,765
13	10	\$3,412	\$3,821
14	11	\$3,461	\$3,876
15	12	\$3,511	\$3,932
16	13	\$3,561	\$3,988
17	14	\$3,614	\$4,048
18	15	\$3,667	\$4,107
19	16	\$3,722	\$4,169
20	17	\$3,777	\$4,230
21	18	\$3,834	\$4,294
22	19	\$3,892	\$4,359
23	20	\$3,950	\$4,424
24	21	\$4,011	\$4,492
25	22	\$4,072	\$4,561
26	23	\$4,136	\$4,632
27	24	\$4,200	\$4,704
28	25	\$4,264	\$4,776
29	26	\$4,330	\$4,850
30	27	\$4,398	\$4,926
31	28	\$4,467	\$5,003
32	29	\$4,538	\$5,083
33	30+	\$4,538	\$5,083

2003-2004 MONTHLY SALARY SCHEDULE

"M" TEACHERS

	Years of Experience	"M" Teachers	NBPTS Certification
34			
35			
36			
37			
38			
39	0	\$2,778	N/A
40	1	\$2,824	N/A
41	2	\$2,872	N/A
42	3	\$3,040	\$3,405
43	4	\$3,194	\$3,577
44	5	\$3,340	\$3,741
45	6	\$3,480	\$3,898
46	7	\$3,593	\$4,024
47	8	\$3,645	\$4,082
48	9	\$3,698	\$4,142
49	10	\$3,753	\$4,203
50	11	\$3,807	\$4,264
51	12	\$3,862	\$4,325
52	13	\$3,917	\$4,387
53	14	\$3,975	\$4,452
54	15	\$4,034	\$4,518
55	16	\$4,094	\$4,585

1	17	\$4,155	\$4,654
2	18	\$4,217	\$4,723
3	19	\$4,281	\$4,795
4	20	\$4,345	\$4,866
5	21	\$4,412	\$4,941
6	22	\$4,479	\$5,016
7	23	\$4,550	\$5,096
8	24	\$4,620	\$5,174
9	25	\$4,690	\$5,253
10	26	\$4,763	\$5,335
11	27	\$4,838	\$5,419
12	28	\$4,914	\$5,504
13	29	\$4,992	\$5,591
14	30+	\$4,992	\$5,591

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

SECTION 7.1.(d) Effective for the 2003-2004 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

SECTION 7.1.(e) Effective for the 2003-2004 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

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

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

SECTION 7.1.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to implement the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2003-2004 fiscal year, commencing July 1, 2003, is as follows:

2003-2004

**PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES
CLASSIFICATION**

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,226	-	-	-	-
5	\$3,373	-	-	-	-
6	\$3,515	-	-	-	-
7	\$3,629	-	-	-	-
8	\$3,681	\$3,681	-	-	-
9	\$3,735	\$3,735	-	-	-
10	\$3,791	\$3,791	\$3,845	-	-
11	\$3,845	\$3,845	\$3,901	-	-
12	\$3,901	\$3,901	\$3,956	\$4,015	-
13	\$3,956	\$3,956	\$4,015	\$4,074	\$4,135
14	\$4,015	\$4,015	\$4,074	\$4,135	\$4,197
15	\$4,074	\$4,074	\$4,135	\$4,197	\$4,259
16	\$4,135	\$4,135	\$4,197	\$4,259	\$4,324
17	\$4,197	\$4,197	\$4,259	\$4,324	\$4,388
18	\$4,259	\$4,259	\$4,324	\$4,388	\$4,456
19	\$4,324	\$4,324	\$4,388	\$4,456	\$4,524
20	\$4,388	\$4,388	\$4,456	\$4,524	\$4,596
21	\$4,456	\$4,456	\$4,524	\$4,596	\$4,666
22	\$4,524	\$4,524	\$4,596	\$4,666	\$4,737
23	\$4,596	\$4,596	\$4,666	\$4,737	\$4,811
24	\$4,666	\$4,666	\$4,737	\$4,811	\$4,886
25	\$4,737	\$4,737	\$4,811	\$4,886	\$4,963
26	\$4,811	\$4,811	\$4,886	\$4,963	\$5,042
27	\$4,886	\$4,886	\$4,963	\$5,042	\$5,143
28	\$4,963	\$4,963	\$5,042	\$5,143	\$5,246
29	\$5,042	\$5,042	\$5,143	\$5,246	\$5,351
30	\$5,143	\$5,143	\$5,246	\$5,351	\$5,458
31	\$5,246	\$5,246	\$5,351	\$5,458	\$5,567
32	-	\$5,351	\$5,458	\$5,567	\$5,678
33	-	-	\$5,567	\$5,678	\$5,792
34	-	-	\$5,678	\$5,792	\$5,908
35	-	-	-	\$5,908	\$6,026
36	-	-	-	\$6,026	\$6,147
37	-	-	-	-	\$6,270

2003-2004

**PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES
CLASSIFICATION**

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	\$4,259	-	-	-

1	15	\$4,324	-	-	-
2	16	\$4,388	\$4,456	-	-
3	17	\$4,456	\$4,524	\$4,666	-
4	18	\$4,524	\$4,596	\$4,737	\$4,811
5	19	\$4,596	\$4,666	\$4,811	\$4,886
6	20	\$4,666	\$4,737	\$4,886	\$4,963
7	21	\$4,737	\$4,811	\$4,963	\$5,042
8	22	\$4,811	\$4,886	\$5,042	\$5,143
9	23	\$4,886	\$4,963	\$5,143	\$5,246
10	24	\$4,963	\$5,042	\$5,246	\$5,351
11	25	\$5,042	\$5,143	\$5,351	\$5,458
12	26	\$5,143	\$5,246	\$5,458	\$5,567
13	27	\$5,246	\$5,351	\$5,567	\$5,678
14	28	\$5,351	\$5,458	\$5,678	\$5,792
15	29	\$5,458	\$5,567	\$5,792	\$5,908
16	30	\$5,567	\$5,678	\$5,908	\$6,026
17	31	\$5,678	\$5,792	\$6,026	\$6,147
18	32	\$5,792	\$5,908	\$6,147	\$6,270
19	33	\$5,908	\$6,026	\$6,270	\$6,395
20	34	\$6,026	\$6,147	\$6,395	\$6,523
21	35	\$6,147	\$6,270	\$6,523	\$6,653
22	36	\$6,270	\$6,395	\$6,653	\$6,786
23	37	\$6,395	\$6,523	\$6,786	\$6,922
24	38	\$6,523	\$6,653	\$6,922	\$7,060
25	39	-	\$6,786	\$7,060	\$7,201
26	40	-	\$6,922	\$7,201	\$7,345
27	41	-	-	\$7,345	\$7,492

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

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

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

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

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

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

6 **SECTION 7.2.(f)** There shall be no State requirement that superintendents
7 in each local school unit shall receive in State-paid salary at least one percent (1%)
8 more than the highest paid principal receives in State salary in that school unit;
9 provided, however, the additional State-paid salary a superintendent who was employed
10 by a local school administrative unit for the 1992-1993 fiscal year received because of
11 that requirement shall not be reduced because of this subsection for subsequent fiscal
12 years that the superintendent is employed by that local school administrative unit so
13 long as the superintendent is entitled to at least that amount of additional State-paid
14 salary under the rules in effect for the 1992-1993 fiscal year.

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

17 **SECTION 7.2.(h)**

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

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

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

33 **SECTION 7.2.(i)** Participants in an approved full-time masters in school
34 administration program shall receive up to a 10-month stipend at the beginning salary of
35 an assistant principal during the internship period of the masters program. For the
36 2003-2004 fiscal year, the stipend shall not exceed the difference between the beginning
37 salary of an assistant principal and fifty percent (50%) of any fellowship funds received
38 by the intern as a full-time student, including awards of the Principal Fellows Program.
39 For the 2004-2005 fiscal year and subsequent fiscal years, the stipend shall not exceed
40 the difference between the beginning salary of an assistant principal and any fellowship
41 funds received by the intern as a full-time student, including awards of the Principal
42 Fellows Program. The Principal Fellows Program or the school of education where the
43 intern participates in a full-time masters in school administration program shall supply
44 the Department of Public Instruction with certification of eligible full-time interns.

45 **SECTION 7.2.(j)** During the 2003-2004 fiscal year, the placement on the
46 salary schedule of an administrator with a one-year provisional assistant principal's
47 certificate shall be at the entry-level salary for an assistant principal or the appropriate
48 step on the teacher salary schedule, whichever is higher.

49
50 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

51 **CENTRAL OFFICE SALARIES**

52 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
53 superintendents, associate superintendents, directors/coordinators, supervisors, and
54 finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these

1 ranges are increased by one and eighty-one hundredths percent (1.81%) annually for
2 full-time employees.

3	School Administrator I	\$2,932	\$5,308
4	School Administrator II	\$3,112	\$5,634
5	School Administrator III	\$3,303	\$5,979
6	School Administrator IV	\$3,436	\$6,221
7	School Administrator V	\$3,574	\$6,473
8	School Administrator VI	\$3,792	\$6,869
9	School Administrator VII	\$3,945	\$7,147

10 The local board of education shall determine the appropriate category and
11 placement for each assistant superintendent, associate superintendent,
12 director/coordinator, supervisor, or finance officer within the salary ranges and within
13 funds appropriated by the General Assembly for central office administrators and
14 superintendents. The category in which an employee is placed shall be included in the
15 contract of any employee hired on or after July 1, 2003.

16 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
17 school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. The top
18 of these ranges are increased by one and eighty-one hundredths percent (1.81%)
19 annually for full-time employees.

20	Superintendent I	\$4,187	\$7,586
21	Superintendent II	\$4,445	\$8,047
22	Superintendent III	\$4,716	\$8,541
23	Superintendent IV	\$5,005	\$9,062
24	Superintendent V	\$5,312	\$9,618

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

29 Notwithstanding the provisions of this subsection, a local board of education
30 may pay an amount in excess of the applicable range to a superintendent who is entitled
31 to receive the higher amount under Section 7.2.(f) of this act.

32 **SECTION 7.3.(c)** Longevity pay for superintendents, assistant
33 superintendents, associate superintendents, directors/coordinators, supervisors, and
34 finance officers shall be as provided for State employees under the State Personnel Act.

35 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
36 superintendents, directors/coordinators, supervisors, and finance officers with
37 certification based on academic preparation at the six-year degree level shall receive a
38 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
39 the compensation provided pursuant to this section. Superintendents, assistant
40 superintendents, associate superintendents, directors/coordinators, supervisors, and
41 finance officers with certification based on academic preparation at the doctoral degree
42 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
43 month in addition to the compensation provided for under this section.

44 **SECTION 7.3.(e)** The State Board of Education shall not permit local
45 school administrative units to transfer State funds from other funding categories for
46 salaries for public school central office administrators.

47 **SECTION 7.3.(f)** The Director of the Budget shall transfer from the Reserve
48 for Compensation Increases created in this act for fiscal year 2003-2004, beginning July
49 1, 2003, funds necessary to provide an average annual salary increase of one and
50 eighty-one hundredths percent (1.81%), including funds for the employer's retirement
51 and social security contributions, commencing July 1, 2003, for all permanent full-time
52 personnel paid from the Central Office Allotment. The State Board of Education shall
53 allocate these funds to local school administrative units. The local boards of education
54 shall establish guidelines for providing their salary increases to these personnel.
55

1 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

2 **NONCERTIFIED PERSONNEL**

3 **SECTION 7.4.(a)** The Director of the Budget shall transfer from the
4 Reserve for Compensation Increases created in this act for fiscal year 2003-2004,
5 commencing July 1, 2003, funds necessary to provide a salary increase of one and
6 eighty-one hundredths percent (1.81%), including funds for the employer's retirement
7 and social security contribution, commencing July 1, 2003, for all noncertified public
8 school employees whose salaries are supported from the State's General Fund.

9 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
10 for all such employees who were employed for all or part of fiscal year 2002-2003 and
11 who continue their employment for fiscal year 2003-2004 by at least one and eighty-one
12 hundredths percent (1.81%), commencing July 1, 2003. For part-time employees, the
13 pay increase shall be pro rata based on the number of hours worked.

14 **SECTION 7.4.(c)** These funds shall not be used for any purpose other than
15 for the salary increases and necessary employer contributions provided by this section.

16 **SECTION 7.4.(d)** The State Board of Education may adopt salary ranges for
17 noncertified personnel to support increases of one and eighty-one hundredths percent
18 (1.81%) for the 2003-2004 school year.

19
20 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

21 **RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND**
22 **PRINCIPALS IN PUBLIC SCHOOLS**

23 **SECTION 7.5.(a)** Funds in the Reserve for Experience Step Increase for
24 Teachers and Principals in Public Schools shall be used for experience step increases for
25 employees of schools operated by a local board of education, the Department of Health
26 and Human Services, the Department of Correction, or the Department of Juvenile
27 Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the
28 principal and assistant principal salary schedule.

29 **SECTION 7.5.(b)** Effective July 1, 2003, any permanent certified personnel
30 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of
31 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
32 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1,
33 2003, and paid at the top of the principal and assistant principal salary schedule shall
34 receive a one-time bonus equivalent to two percent (2%). For permanent part-time
35 personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S.
36 115C-325(a)(5a) are not eligible to receive the bonus.

37
38 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

39 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

40 **SECTION 7.6.(a)** Funds for Supplemental Funding. – The General
41 Assembly finds that it is appropriate to provide supplemental funds in low-wealth
42 counties to allow those counties to enhance the instructional program and student
43 achievement. Therefore, funds are appropriated to State Aid to Local School
44 Administrative Units for the 2003-2004 fiscal year and the 2004-2005 fiscal year to be
45 used for supplemental funds for the schools.

46 **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds
47 received pursuant to this section shall be used only: (i) to provide instructional
48 positions, instructional support positions, teacher assistant positions, clerical positions,
49 school computer technicians, instructional supplies and equipment, staff development,
50 and textbooks; (ii) for salary supplements for instructional personnel and instructional
51 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars
52 (\$10,000) of the plant operation contract cost charged by the Department of Public
53 Instruction for services.

54 Local boards of education are encouraged to use at least twenty-five percent
55 (25%) of the funds received pursuant to this section to improve the academic

1 performance of children who are performing at Level I or II on either reading or
2 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level
3 I or II on the writing tests in grades 4 and 7. Local boards of education shall report to
4 the State Board of Education on an annual basis on funds used for this purpose, and the
5 State Board shall report this information to the Joint Legislative Education Oversight
6 Committee. These reports shall specify how these funds were targeted and used to
7 implement specific improvement strategies of each local school administrative unit and
8 its schools, such as teacher recruitment, closing the achievement gap, improving student
9 accountability, addressing the needs of at-risk students, and establishing and
10 maintaining safe schools.

11 **SECTION 7.6.(c) Definitions.** – As used in this section:

- 12 (1) "Anticipated county property tax revenue availability" means the
13 county-adjusted property tax base multiplied by the effective State
14 average tax rate.
- 15 (2) "Anticipated total county revenue availability" means the sum of the:
16 a. Anticipated county property tax revenue availability,
17 b. Local sales and use taxes received by the county that are levied
18 under Chapter 1096 of the 1967 Session Laws or under
19 Subchapter VIII of Chapter 105 of the General Statutes,
20 c. Sales tax hold harmless reimbursement received by the county
21 under G.S. 105-521, and
22 d. Fines and forfeitures deposited in the county school fund for the
23 most recent year for which data are available.
- 24 (3) "Anticipated total county revenue availability per student" means the
25 anticipated total county revenue availability for the county divided by
26 the average daily membership of the county.
- 27 (4) "Anticipated State average revenue availability per student" means the
28 sum of all anticipated total county revenue availability divided by the
29 average daily membership for the State.
- 30 (5) "Average daily membership" means average daily membership as
31 defined in the North Carolina Public Schools Allotment Policy
32 Manual, adopted by the State Board of Education. If a county contains
33 only part of a local school administrative unit, the average daily
34 membership of that county includes all students who reside within the
35 county and attend that local school administrative unit.
- 36 (6) "County-adjusted property tax base" shall be computed as follows:
37 a. Subtract the present-use value of agricultural land, horticultural
38 land, and forestland in the county, as defined in G.S. 105-277.2,
39 from the total assessed real property valuation of the county,
40 b. Adjust the resulting amount by multiplying by a weighted
41 average of the three most recent annual sales assessment ratio
42 studies,
43 c. Add to the resulting amount the:
44 1. Present-use value of agricultural land, horticultural land,
45 and forestland, as defined in G.S. 105-277.2,
46 2. Value of property of public service companies,
47 determined in accordance with Article 23 of Chapter 105
48 of the General Statutes, and
49 3. Personal property value for the county.
- 50 (7) "County-adjusted property tax base per square mile" means the
51 county-adjusted property tax base divided by the number of square
52 miles of land area in the county.
- 53 (8) "County wealth as a percentage of State average wealth" shall be
54 computed as follows:

- 1 a. Compute the percentage that the county per capita income is of
2 the State per capita income and weight the resulting percentage
3 by a factor of five-tenths,
4 b. Compute the percentage that the anticipated total county
5 revenue availability per student is of the anticipated State
6 average revenue availability per student and weight the
7 resulting percentage by a factor of four-tenths,
8 c. Compute the percentage that the county-adjusted property tax
9 base per square mile is of the State-adjusted property tax base
10 per square mile and weight the resulting percentage by a factor
11 of one-tenth,
12 d. Add the three weighted percentages to derive the county wealth
13 as a percentage of the State average wealth.
- 14 (9) "Effective county tax rate" means the actual county tax rate multiplied
15 by a weighted average of the three most recent annual sales assessment
16 ratio studies.
- 17 (10) "Effective State average tax rate" means the average of effective
18 county tax rates for all counties.
- 19 (10a) "Local current expense funds" means the most recent county current
20 expense appropriations to public schools, as reported by local boards
21 of education in the audit report filed with the Secretary of the Local
22 Government Commission pursuant to G.S. 115C-447.
- 23 (11) "Per capita income" means the average for the most recent three years
24 for which data are available of the per capita income according to the
25 most recent report of the United States Department of Commerce,
26 Bureau of Economic Analysis, including any reported modifications
27 for prior years as outlined in the most recent report.
- 28 (12) "Sales assessment ratio studies" means sales assessment ratio studies
29 performed by the Department of Revenue under G.S. 105-289(h).
- 30 (13) "State average current expense appropriations per student" means the
31 most recent State total of county current expense appropriations to
32 public schools, as reported by local boards of education in the audit
33 report filed with the Secretary of the Local Government Commission
34 pursuant to G.S. 115C-447.
- 35 (14) "State average adjusted property tax base per square mile" means the
36 sum of the county-adjusted property tax bases for all counties divided
37 by the number of square miles of land area in the State.
- 38 (14a) "Supplant" means to decrease local per student current expense
39 appropriations from one fiscal year to the next fiscal year.
- 40 (15) "Weighted average of the three most recent annual sales assessment
41 ratio studies" means the weighted average of the three most recent
42 annual sales assessment ratio studies in the most recent years for which
43 county current expense appropriations and adjusted property tax
44 valuations are available. If real property in a county has been revalued
45 one year prior to the most recent sales assessment ratio study, a
46 weighted average of the two most recent sales assessment ratios shall
47 be used. If property has been revalued the year of the most recent sales
48 assessment ratio study, the sales assessment ratio for the year of
49 revaluation shall be used.

50 **SECTION 7.6.(d)** Eligibility for Funds. – Except as provided in subsection
51 (h) of this section, the State Board of Education shall allocate these funds to local school
52 administrative units located in whole or in part in counties in which the county wealth
53 as a percentage of the State average wealth is less than one hundred percent (100%).

54 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection
55 (g) of this section, the amount received per average daily membership for a county shall

1 be the difference between the State average current expense appropriations per student
2 and the current expense appropriations per student that the county could provide given
3 the county's wealth and an average effort to fund public schools. (To derive the current
4 expense appropriations per student that the county could be able to provide given the
5 county's wealth and an average effort to fund public schools, multiply the county wealth
6 as a percentage of State average wealth by the State average current expense
7 appropriations per student.)

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

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

15 **SECTION 7.6.(f)** Formula for Distribution of Supplemental Funding
16 Pursuant to This Section Only. – The formula in this section is solely a basis for
17 distribution of supplemental funding for low-wealth counties and is not intended to
18 reflect any measure of the adequacy of the educational program or funding for public
19 schools. The formula is also not intended to reflect any commitment by the General
20 Assembly to appropriate any additional supplemental funds for low-wealth counties.

21 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective
22 tax rates in the 1996-1997 fiscal year that were above the State average effective tax
23 rate but that had effective rates below the State average in the 1997-1998 fiscal year or
24 thereafter shall receive reduced funding under this section. This reduction in funding
25 shall be determined by subtracting the amount that the county would have received
26 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount
27 that the county would have received if qualified for full funding and multiplying the
28 difference by ten percent (10%). This method of calculating reduced funding shall
29 apply one time only.

30 This method of calculating reduced funding shall not apply in cases in which
31 the effective tax rate fell below the statewide average effective tax rate as a result of a
32 reduction in the actual property tax rate. In these cases, the minimum effort required
33 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995
34 Session Laws.

35 If the county documents that it has increased the per student appropriation to
36 the school current expense fund in the current fiscal year, the State Board of Education
37 shall include this additional per pupil appropriation when calculating minimum effort
38 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

39 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local
40 school administrative unit receives funds under this section shall use the funds to
41 supplement local current expense funds and shall not supplant local current expense
42 funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not
43 allocate funds under this section to a county found to have used these funds to supplant
44 local per student current expense funds. The State Board of Education shall make a
45 finding that a county has used these funds to supplant local current expense funds in the
46 prior year, or the year for which the most recent data are available, if:

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

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

1 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the
2 Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines
3 that counties have supplanted funds.

4 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of
5 Revenue shall provide to the Department of Public Instruction a preliminary report for
6 the current fiscal year of the assessed value of the property tax base for each county
7 prior to March 1 of each year and a final report prior to May 1 of each year. The reports
8 shall include for each county the annual sales assessment ratio and the taxable values of
9 (i) total real property, (ii) the portion of total real property represented by the
10 present-use value of agricultural land, horticultural land, and forestland as defined in
11 G.S. 105-277.2, (iii) property of public service companies determined in accordance
12 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.
13

14 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

15 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

16 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in
17 subsection (b) of this section, the State Board of Education shall allocate funds
18 appropriated for small school system supplemental funding (i) to each county school
19 administrative unit with an average daily membership of fewer than 3,175 students and
20 (ii) to each county school administrative unit with an average daily membership from
21 3,175 to 4,000 students if the county in which the local school administrative unit is
22 located has a county-adjusted property tax base per student that is below the
23 State-adjusted property tax base per student and if the total average daily membership of
24 all local school administrative units located within the county is from 3,175 to 4,000
25 students. The allocation formula shall:

- 26 (1) Round all fractions of positions to the next whole position.
- 27 (2) Provide five and one-half additional regular classroom teachers in
28 counties in which the average daily membership per square mile is
29 greater than four, and seven additional regular classroom teachers in
30 counties in which the average daily membership per square mile is
31 four or fewer.
- 32 (3) Provide additional program enhancement teachers adequate to offer
33 the standard course of study.
- 34 (4) Change the duty-free period allocation to one teacher assistant per 400
35 average daily membership.
- 36 (5) Provide a base for the consolidated funds allotment of at least six
37 hundred sixty-nine thousand seven hundred four dollars (\$669,704),
38 excluding textbooks.
- 39 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

48 **SECTION 7.7.(b)** Nonsupplant Requirement. – A county in which a local
49 school administrative unit receives funds under this section shall use the funds to
50 supplement local current expense funds and shall not supplant local current expense
51 funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not
52 allocate funds under this section to a county found to have used these funds to supplant
53 local per student current expense funds. The State Board of Education shall make a
54 finding that a county has used these funds to supplant local current expense funds in the
55 prior year, or the year for which the most recent data are available, if:

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

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

10 **SECTION 7.7.(c)** Phase-Out Provisions. – If a local school administrative
11 unit becomes ineligible for funding under this formula solely because of an increase in
12 the county-adjusted property tax base per student of the county in which the local school
13 administrative unit is located, funding for that unit shall be phased out over a two-year
14 period. For the first year of ineligibility, the unit shall receive the same amount it
15 received for the prior fiscal year. For the second year of ineligibility, it shall receive
16 one-half of that amount.

17 If a local school administrative unit becomes ineligible for funding under this
18 formula solely because of an increase in the population of the county in which the local
19 school administrative unit is located, funding for that unit shall be continued for five
20 years after the unit becomes ineligible.

21 **SECTION 7.7.(d)** Definitions. – As used in this section:

- 22 (1) "Average daily membership" means within two percent (2%) of the
23 average daily membership as defined in the North Carolina Public
24 Schools Allotment Policy Manual, adopted by the State Board of
25 Education.
26 (2) "County-adjusted property tax base per student" means the total
27 assessed property valuation for each county, adjusted using a weighted
28 average of the three most recent annual sales assessment ratio studies,
29 divided by the total number of students in average daily membership
30 who reside within the county.
31 (2a) "Local current expense funds" means the most recent county current
32 expense appropriations to public schools, as reported by local boards
33 of education in the audit report filed with the Secretary of the Local
34 Government Commission pursuant to G.S. 115C-447.
35 (3) "Sales assessment ratio studies" means sales assessment ratio studies
36 performed by the Department of Revenue under G.S. 105-289(h).
37 (4) "State-adjusted property tax base per student" means the sum of all
38 county adjusted property tax bases divided by the total number of
39 students in average daily membership who reside within the State.
40 (4a) "Supplant" means to decrease local per student current expense
41 appropriations from one fiscal year to the next fiscal year.
42 (5) "Weighted average of the three most recent annual sales assessment
43 ratio studies" means the weighted average of the three most recent
44 annual sales assessment ratio studies in the most recent years for which
45 county current expense appropriations and adjusted property tax
46 valuations are available. If real property in a county has been revalued
47 one year prior to the most recent sales assessment ratio study, a
48 weighted average of the two most recent sales assessment ratios shall
49 be used. If property has been revalued during the year of the most
50 recent sales assessment ratio study, the sales assessment ratio for the
51 year of revaluation shall be used.

52 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to
53 the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it
54 determines that counties have supplanted funds.

1 **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged
2 to use at least twenty percent (20%) of the funds they receive pursuant to this section to
3 improve the academic performance of children who are performing at Level I or II on
4 either reading or mathematics end-of-grade tests in grades 3-8 and children who are
5 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of
6 education shall report to the State Board of Education on an annual basis on funds used
7 for this purpose, and the State Board shall report this information to the Joint
8 Legislative Education Oversight Committee. These reports shall specify how these
9 funds were targeted and used to implement specific improvement strategies of each
10 local school administrative unit and its schools such as teacher recruitment, closing the
11 achievement gap, improving student accountability, addressing the needs of at-risk
12 students, and establishing and maintaining safe schools.
13

14 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

15 **APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS**

16 **SECTION 7.8.** Of funds appropriated from the General Fund to State Aid to
17 Local School Administrative Units, the sum of one million nine hundred fifty-six
18 thousand one hundred fifteen dollars (\$1,956,115) for the 2003-2004 and 2004-2005
19 fiscal years shall be used to provide the State's chronically low-performing schools with
20 tools needed to dramatically improve student achievement. These funds shall be used to
21 implement any of the following strategies at the schools that have not previously been
22 implemented with State or other funds:

- 23 (1) The sum of one million six hundred fifty-seven thousand three
24 hundred forty-five dollars (\$1,657,345) for the 2003-2004 and
25 2004-2005 fiscal years shall be used to reduce class size at a
26 continually low-performing school to ensure that the number of
27 teachers allotted for students in grades four and five is one for every 17
28 students, and that the number of teachers allotted in grades six through
29 eight is one for every 17 students, and that the number of teachers
30 allotted in grades nine through twelve is one for every 20 students; and
31 (2) The sum of two hundred ninety-eight thousand seven hundred seventy
32 dollars (\$298,770) for the 2003-2004 and 2004-2005 fiscal years shall
33 be used to extend teachers' contracts for a total of 10 days, including
34 five days of additional instruction with related costs for other than
35 teachers' salaries for the 2003-2004 and 2004-2005 school years.

36 Notwithstanding any other provision of law, the State Board of Education
37 may implement intervention strategies for the 2003-2004 and 2004-2005 school years
38 that it deems appropriate.
39

40 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

41 **IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY**
42 **SCHOOLS**

43 **SECTION 7.9.** Of funds appropriated from the General Fund to State Aid to
44 Local School Administrative Units, the sum of ten million one hundred thirty-four
45 thousand six hundred seven dollars (\$10,134,607) for the 2003-2004 and 2004-2005
46 fiscal years shall be budgeted to provide the State's lowest performing elementary
47 schools with the tools needed to dramatically improve student achievement. These
48 funds shall be used for the 37 elementary schools at which, for the 1999-2000 school
49 year over eighty percent (80%) of the students qualified for free or reduced-price
50 lunches, and no more than fifty-five percent (55%) of the students performed at or
51 above grade level. Of these funds:

- 52 (1) The sum of six million ninety-three thousand one hundred eighty-one
53 dollars (\$6,093,181) for the 2003-2004 and 2004-2005 fiscal years
54 shall be used to reduce class size at each of these schools to ensure that
55 no class kindergarten through third grade has more than 15 students;

- 1 (2) The sum of two million two hundred sixty-six thousand twenty-six
2 dollars (\$2,266,026) for the 2003-2004 and 2004-2005 fiscal years
3 shall be used to extend all teachers' contracts at these schools for a
4 total of 10 days, with five days for staff development, including staff
5 development on methods to individualize instruction in smaller
6 classes, and preparation for the 2003-2004 and 2004-2005 school
7 years, and five additional days of instruction with related costs for
8 other than teachers' salaries; and
- 9 (3) The sum of one million seven hundred seventy-five thousand four
10 hundred dollars (\$1,775,400) for the 2003-2004 and 2004-2005 fiscal
11 years shall be used to provide one additional instructional support
12 position at each priority school.

13 No funds from the teacher assistant allotment category may be allotted to the
14 local school administrative units for students assigned to these schools. Any teacher
15 assistants displaced from jobs in these high-priority elementary schools shall be given
16 preferential consideration for vacant teacher assistant positions at other schools,
17 provided their job performance has been satisfactory. Nothing in this section prevents
18 the local school administrative unit from placing teacher assistants in these schools.
19

20 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

21 **EVALUATION OF INITIATIVES TO ASSIST HIGH-PRIORITY SCHOOLS**

22 **SECTION 7.10.(a)** In order for the high-priority schools identified in
23 Section 7.9 of this act to remain eligible for the additional resources provided in this
24 section, the schools must meet the expected growth for each year and must achieve high
25 growth for at least two out of three years based on the State Board of Education's annual
26 performance standards set for each school. No adjustment in the allotment of resources
27 based on performance shall be made until the 2004-2005 school year.

28 **SECTION 7.10.(b)** All teaching positions allotted for students in
29 high-priority schools and continually low-performing schools in those grades targeted
30 for smaller class sizes shall be assigned to and teach in those grades and in those
31 schools. The maximum class size in grades K-3 in high-priority schools and in grades
32 K-5 in continually low-performing schools shall be no more than one student above the
33 allotment ratio in that grade. The Department of Public Instruction shall monitor class
34 sizes at these schools at the end of the first month of school and report to the State
35 Board of Education on the actual class sizes at these schools. If the local school
36 administrative unit notifies the State Board of Education that they do not have sufficient
37 resources to adhere to the class size maximum requirements and requests additional
38 teaching positions, the State Board shall verify the need for additional positions. If the
39 additional resources are determined necessary, the State Board of Education may
40 allocate additional teaching positions to the unit from the Reserve for Average Daily
41 Membership adjustments.

42 **SECTION 7.10.(c)** Of funds appropriated from the General Fund to State
43 Aid to Local School Administrative Units, the sum of five hundred thousand dollars
44 (\$500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars
45 (\$500,000) for fiscal year 2004-2005 shall be used by the State Board of Education to
46 contract with an outside organization to evaluate the initiatives set forth in this section.
47 The evaluation shall include:

- 48 (1) An assessment of the overall impact these initiatives have had on
49 student achievement;
- 50 (2) An assessment of the effectiveness of each individual initiative set for
51 this section in improving student achievement;
- 52 (3) An identification of changes in staffing patterns, instructional methods,
53 staff development, and parental involvement as a result of these
54 initiatives;

- 1 (4) An accounting of how funds and personnel resources made available
2 for these schools were utilized and the impact of varying patterns of
3 utilization on changes in student achievement;
4 (5) An assessment of the impact of bonuses for mathematics, science, and
5 special education teachers on (i) the retention of these teachers in the
6 targeted schools, (ii) the recruitment of teachers in these specialties
7 into targeted schools, (iii) the recruitment of teachers certified in these
8 disciplines, and (iv) student achievement in schools at which these
9 teachers receive these bonuses; and
10 (6) Recommendations for the continuance and improvement of these
11 initiatives.

12 The State Board of Education shall make a report to the Joint Legislative
13 Education Oversight Committee regarding the results of this evaluation by December 1
14 of each year. The State Board of Education shall submit its recommendations for
15 changes to these initiatives to the Committee at anytime.

16
17 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

18 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

19 **SECTION 7.11.** The State Board of Education may use up to two hundred
20 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student
21 allotment each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to
22 implement G.S. 115C-12(24).
23

24 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

25 **ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE**

26 **SECTION 7.12.(a)** The maximum class size limits for second grade
27 established by the State Board of Education for the 2003-2004 school year shall be
28 reduced by two from the 2002-2003 limits, based on an allotment ratio of one teacher
29 for every 18 students.

30 **SECTION 7.12.(b)** For the 2003-2004 school year, local school
31 administrative units shall use these additional teacher positions to reduce class size in
32 second grade.
33

34 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

35 **CHILDREN WITH DISABILITIES**

36 **SECTION 7.13.** The State Board of Education shall allocate funds for
37 children with disabilities on the basis of two thousand six hundred seventy dollars and
38 twenty-eight cents (\$2,670.28) per child for a maximum of 165,266 children for the
39 2003-2004 school year. Each local school administrative unit shall receive funds for the
40 lesser of (i) all children who are identified as children with disabilities or (ii) twelve and
41 five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the
42 local school administrative unit.

43 The dollar amounts allocated under this section for children with disabilities
44 shall also adjust in accordance with legislative salary increments, retirement rate
45 adjustments, and health benefit adjustments for personnel who serve children with
46 disabilities.
47

48 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

49 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

50 **SECTION 7.14.** The State Board of Education shall allocate funds for
51 academically or intellectually gifted children on the basis of eight hundred eighty-four
52 dollars and fifty-five cents (\$884.55) per child. A local school administrative unit shall
53 receive funds for a maximum of four percent (4%) of its 2003-2004 allocated average
54 daily membership, regardless of the number of children identified as academically or

1 intellectually gifted in the unit. The State Board shall allocate funds for no more than
2 53,712 children for the 2003-2004 school year.

3 The dollar amounts allocated under this section for academically or
4 intellectually gifted children shall also adjust in accordance with legislative salary
5 increments, retirement rate adjustments, and health benefit adjustments for personnel
6 who serve academically or intellectually gifted children.

7
8 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

9 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

10 **SECTION 7.15.(a)** The State Board of Education shall develop guidelines
11 for identifying and providing services to students with limited proficiency in the English
12 language.

13 The State Board shall allocate these funds to local school administrative units
14 and to charter schools under a formula that takes into account the average percentage of
15 students in the units or the charters over the past three years who have limited English
16 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)
17 average daily membership of the unit or the charter school includes at least 20 students
18 with limited English proficiency or (ii) students with limited English proficiency
19 comprise at least two and one-half percent (2.5%) of the average daily membership of
20 the unit or charter school. For the portion of the funds that is allocated on the basis of
21 the number of identified students, the maximum number of identified students for whom
22 a unit or charter school receives funds shall not exceed 10 and six-tenths percent
23 (10.6%) of its average daily membership.

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

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

31 **SECTION 7.15.(b)** The Department of Public Instruction shall prepare a
32 current head count of the number of students classified with limited English proficiency
33 by December 1 of each year.

34 Students in the head count shall be assessed at least once every three years to
35 determine their level of English proficiency. A student who scores "superior" on the
36 standard English language proficiency assessment instrument used in this State shall not
37 be included in the head count of students with limited English proficiency.

38 **SECTION 7.15.(c)** The State Board of Education shall review the allotment
39 formula for funding for students with limited English proficiency. In its review, the
40 Board shall consider whether the proportion of funds allotted on the basis of
41 concentration of students with limited English proficiency in a local school
42 administrative unit is at the proper level or should be revised. The Board shall report
43 the results of its review and its recommendations to the Joint Legislative Education
44 Oversight Committee by November 15, 2003.

45
46 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

47 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

48 **SECTION 7.16.(a)** The State Board of Education shall use funds
49 appropriated for State Aid to Local School Administrative Units for the 2003-2004
50 fiscal year to provide incentive funding for schools that met or exceeded the projected
51 levels of improvement in student performance during the 2002-2003 school year, in
52 accordance with the ABCs of Public Education Program. In accordance with State
53 Board of Education policy:

- 54 (1) Incentive awards in schools that achieve higher than expected
55 improvements may be up to:

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

10 **SECTION 7.16.(b)** The State Board of Education may use funds
11 appropriated to State Aid to Local School Administrative Units for assistance teams to
12 low-performing schools.

13 **SECTION 7.16.(c)** It is the intent of the General Assembly, in future fiscal
14 years, to address efforts in schools to close the achievement gap by providing an
15 incentive for schools that make adequate yearly progress as required by the No Child
16 Left Behind Act of 2001.

17
18 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

19 **LEA ASSISTANCE PROGRAM**

20 **SECTION 7.17.** Of funds appropriated from the General Fund to State Aid
21 to Local School Administrative Units, the sum of five hundred thousand dollars
22 (\$500,000) for fiscal year 2003-2004 shall be used to provide assistance to the State's
23 low-performing Local School Administrative Units (LEAs) and to assist schools in
24 meeting adequate yearly progress in each subgroup identified in the No Child Left
25 Behind Act of 2001. The State Board of Education shall report to the Office of State
26 Budget and Management, the Fiscal Research Division, and the Joint Legislative
27 Education Oversight Committee on the expenditure of these funds by May 15, 2004,
28 and by December 15, 2005. The report shall contain: (1) the criteria for selecting LEAs
29 and schools to receive assistance, (2) measurable goals and objectives for the assistance
30 program, (3) an explanation of the assistance provided, (4) findings from the assistance
31 program, (5) actual expenditures by category, (6) recommendations for the continuance
32 of this program, and (7) any other information the State Board deems necessary.

33
34 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

35 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

36 **SECTION 7.18.(a)** Funds appropriated for the 2003-2004 and 2004-2005
37 fiscal years for Student Accountability Standards shall be used to assist students to
38 perform at or above grade level in reading and mathematics in grades 3-8 as measured
39 by the State's end-of-grade tests. The SBE shall allocate these funds to LEAs based on
40 the number of students who score at Level I or Level II on either reading or
41 mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be
42 used to improve the academic performance of (i) students who are performing at Level I
43 or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students
44 who are performing at Level I or II on the writing tests in grades 4 and 7. These funds
45 may also be used to improve the academic performance of students who are performing
46 at Level I or II on the high school end-of-course tests. These funds shall not be
47 transferred to other allocation categories or otherwise used for other purposes. Except
48 as otherwise provided by law, local boards of education may transfer other funds
49 available to them into this allocation category.

50 The principal of a school receiving these funds, in consultation with the
51 faculty and the site-based management team, shall implement plans for expending these
52 funds to improve the performance of students.

53 Local boards of education are encouraged to use federal funds such as Title I
54 Comprehensive School Reform Development Funds and to examine the use of State

1 funds to ensure that every student is performing at or above grade level in reading and
2 mathematics.

3 These funds shall be allocated to local school administrative units for the
4 2003-2004 fiscal year within 30 days of the date this act becomes law.

5 **SECTION 7.18.(b)** Funds appropriated for Student Accountability
6 Standards shall not revert at the end of each fiscal year but shall remain available for
7 expenditure until August 31 of the subsequent fiscal year.
8

9 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

10 **FUNDS FOR TEACHER RECRUITMENT INITIATIVES**

11 **SECTION 7.19.** The State Board of Education may use up to two hundred
12 thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School
13 Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005
14 fiscal year to enable teachers who have received NBPTS certification or who have
15 otherwise received special recognition to advise the State Board of Education on teacher
16 recruitment and other strategic priorities of the State Board.
17

18 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

19 **RECRUITMENT AND RETENTION INITIATIVE TO ADDRESS TEACHER**
20 **SHORTAGE**

21 **SECTION 7.20.(a)** Of the funds appropriated from the General Fund to
22 State Aid to Local School Administrative Units, the sum of two million eight hundred
23 ninety thousand dollars (\$2,890,000) for the 2003-2004 and 2004-2005 fiscal years shall
24 be used to provide annual bonuses of one thousand eight hundred dollars (\$1,800) to
25 teachers certified in and teaching in the fields of mathematics, science, or special
26 education in grades 6 through 12 at middle and high schools with eighty percent (80%)
27 or more of the students eligible for free or reduced lunch or with fifty percent (50%) or
28 more of students performing below grade level in Algebra I and Biology. The bonus
29 shall be paid monthly with matching benefits. Teachers shall remain eligible for the
30 bonuses so long as they continue to teach in one of these disciplines at a school that was
31 eligible for the bonus program when the teacher first received this bonus.

32 **SECTION 7.20.(b)** In accordance with G.S. 115C-325 and by way of
33 clarification, it shall not constitute a demotion as that term is defined in G.S.
34 115C-325(a)(4) if:

- 35 (1) A teacher who receives a bonus pursuant to this section is reassigned
36 to a school at which there is no such bonus;
- 37 (2) A teacher who receives a bonus pursuant to this section is reassigned
38 to teach in a field for which there is no such bonus; or
- 39 (3) A teacher receives a bonus pursuant to this section and the bonus is
40 subsequently discontinued or reduced.
41

42 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

43 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**
44 **STUDENT INFORMATION SYSTEM**

45 **SECTION 7.21.(a)** The State Board of Education may transfer up to one
46 million dollars (\$1,000,000) in funds appropriated for the Uniform Education Reporting
47 System for the 2003-2004 fiscal year and up to one million dollars (\$1,000,000) in
48 funds appropriated for the Uniform Education Reporting System for the 2004-2005
49 fiscal year to the Department of Public Instruction to lease or purchase equipment
50 necessary for the testing and implementation of NC WISE, the new student information
51 system in the public schools.

52 Testing shall include an emphasis on the security of the system.

53 **SECTION 7.21.(b)** Funds appropriated for the Uniform Education
54 Reporting System shall not revert at the end of the 2003-2004 and 2004-2005 fiscal
55 years, but shall remain available until expended.

1 **SECTION 7.21.(c)** This section becomes effective June 30, 2003.

2
3 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

4 **LITIGATION RESERVE FUNDS**

5 **SECTION 7.22.** The State Board of Education may expend up to five
6 hundred thousand dollars (\$500,000) each year for the 2003-2004 and 2004-2005 fiscal
7 years from unexpended funds for certified employees' salaries to pay expenses related to
8 pending litigation.

9
10 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

11 **LOCAL EDUCATION AGENCY FLEXIBILITY**

12 **SECTION 7.23.** Within 14 days of the date this act becomes law, the State
13 Board of Education shall notify each local school administrative unit of the amount the
14 unit must reduce from State General Fund appropriations. The State Board shall
15 determine the amount of the reduction for each unit on the basis of average daily
16 membership.

17 Each unit shall report to the Department of Public Instruction on the
18 discretionary budget reductions it has identified for the unit within 30 days of the date
19 this act becomes law. No later than December 31, 2003, the State Board of Education
20 shall make a summary report to the Office of State Budget and Management and the
21 Fiscal Research Division on all reductions made by the LEAs to achieve this reduction.

22 For fiscal year 2003-2004, the General Assembly urges local school
23 administrators to make every effort to reduce spending whenever and wherever such
24 budget reductions are appropriate as long as the targeted reductions do not directly
25 impact classroom services or any services for students at risk or children with special
26 needs, including those services or supports that are called for in students' Personal
27 Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the
28 allotment categories listed in this paragraph are necessary in order to meet the reduction
29 target, the local board of education shall submit an explanation of the anticipated impact
30 of the reductions to student services along with the budget reductions to the Department
31 of Public Instruction. By December 15, 2003, for fiscal year 2004-2005, the State Board
32 of Education will determine the changes to the allotment categories to make such
33 reductions permanent.

34
35 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

36 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**
37 **INSTRUCTION**

38 **SECTION 7.24.** Notwithstanding any other provision of law, the
39 Department of Public Instruction may use salary reserve funds and other funds, and may
40 transfer funds within the Department's continuation budget to implement budget
41 reductions for the 2003-2004 fiscal year.

42
43 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

44 **REPLACEMENT SCHOOL BUSES FUNDS**

45 **SECTION 7.25.(a)** Of the funds appropriated to the State Board of
46 Education, the Board may use up to fifteen million dollars (\$15,000,000) for the
47 2003-2004 fiscal year and up to forty-seven million seven hundred fifty-two thousand
48 eight hundred thirteen dollars (\$47,752,813) for the 2004-2005 fiscal year for allotments
49 to local boards of education for replacement school buses under G.S. 115C-249(c) and
50 (d). In making these allotments, the State Board of Education may impose any of the
51 following conditions:

- 52 (1) The local board of education must use the funds only to make the first
53 or second year's payment on a financing contract entered into pursuant
54 to G.S. 115C-528.

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

14 **SECTION 7.25.(b)** Any term contract for the purchase or lease-purchase of
15 school buses or school activity buses shall not require vendor payment of the electronic
16 procurement transaction fee of the North Carolina E-Procurement Service.

17
18 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

19 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

20 **SECTION 7.26.** The State Board of Education may use funds appropriated
21 for drivers education for the 2003-2004 fiscal year and for the 2004-2005 fiscal year for
22 driving eligibility certificates.

23
24 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

25 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

26 **SECTION 7.27.(a)** If the State Board of Education does not have sufficient
27 resources in the ADM Contingency Reserve line item to make allotment adjustments in
28 accordance with the Allotment Adjustments for ADM Growth provisions of the North
29 Carolina Public Schools Allotment Policy Manual, the State Board of Education may
30 use funds appropriated to State Aid for Public Schools for this purpose.

31 **SECTION 7.27.(b)** If the higher of the first or second month average daily
32 membership in a local school administrative unit is at least two percent (2%) or 100
33 students lower than the anticipated average daily membership used for allotments for
34 the unit, the State Board of Education shall reduce allotments for the unit. The reduced
35 allotments shall be based on the higher of the first or second month average daily
36 membership plus one-half of the number of students overestimated in the anticipated
37 average daily membership.

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

41
42 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

43 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**
44 **EVALUATION**

45 **SECTION 7.28.** The State Board of Education may spend up to fifty
46 thousand dollars (\$50,000) a year from the State Aid to Local School Administrative
47 Units for the 2003-2004 and 2004-2005 fiscal years to continue support of a charter
48 school advisory committee and to continue to evaluate charter schools.

49
50 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

51 **STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT**
52 **POPULATION**

53 **SECTION 7.29.** The Joint Legislative Education Oversight Committee shall
54 study the effects of rapid growth in student population on local school administrative
55 units. In the course of the study, the Committee shall consider issues related to rapid

1 growth and strategies for addressing these issues. The Committee shall report to the
2 2004 Regular Session of the General Assembly on its findings and recommendations.

3
4 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

5 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

6 **SECTION 7.30.(a)** The State Board of Education shall grant flexibility to a
7 local board of education regarding the use of mentor funds to provide mentoring
8 support, provided the local board submits a detailed plan on the use of the funds to the
9 State Board and the State Board approves that plan. The plan shall include information
10 on how all mentors in the local school administrative unit have been or will be
11 adequately trained to provide mentoring support.

12 Local boards of education shall use funds allocated for mentor teachers to
13 provide mentoring support to all State-paid newly certified teachers, second-year
14 teachers who were assigned mentors during the prior school year, and entry-level
15 instructional support personnel who have not previously been teachers.

16 **SECTION 7.30.(b)** The State Board of Education, after consultation with
17 the Professional Teaching Standards Commission, shall adopt standards for mentor
18 training.

19 **SECTION 7.30.(c)** Each local board of education with a plan approved
20 pursuant to subsection (a) of this section shall report to the State Board of Education on
21 the impact of its mentor program on teacher retention. The State Board of Education
22 shall report to the Joint Legislative Education Oversight Committee by October 15,
23 2004, on the characteristics of mentor programs that are most effective in retaining
24 teachers.

25 **SECTION 7.30.(d)** The Winston-Salem Forsyth, Charlotte Mecklenburg,
26 and Wake County Public School systems may continue with their existing pilot mentor
27 programs, but shall submit plans as required in subsection (a) of this section. These
28 three local boards of education shall report as required in subsection (c) of this section.

29
30 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

31 **SCHOOL NURSE SERVICES**

32 **SECTION 7.32.** The State Board of Education shall review the standards for
33 the number of school nurses recommended in the Basic Education Program to determine
34 whether these standards are being met by the local school administrative units. The
35 State Board shall compare the current standards with standards recommended by
36 national health organizations to determine whether the current standards are adequate to
37 meet the changing needs and demands for health services of the current and projected
38 school populations. In its review, the Board shall consider the need to change legal
39 requirements for the provision of health related services to public school students in its
40 review.

41 The State Board of Education shall make recommendations on the ratio of
42 school nurses to student populations that it considers necessary, as well as
43 recommendations for the provision of school nurse services, to the Joint Legislative
44 Education Oversight Committee by February 15, 2004.

45
46 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

47 **TRANSFER OF PUBLIC SCHOOL CAPITAL FUND**

48 **SECTION 7.33.(a)** The Public School Building Capital Fund is transferred
49 from the Office of State Budget and Management to the Department of Public
50 Instruction, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of
51 such a transfer.

52 **SECTION 7.33.(b)** G.S. 115C-546.1(c) reads as rewritten:

53 "(c) The Fund shall be administered by the ~~Office of State Budget and~~
54 ~~Management, Department of Public Instruction.~~"

1 Requested by: Senators Metcalf, Garrou, Dalton, Hagan

2 **FUNDS FOR REGIONAL EDUCATIONAL SERVICES ALLIANCES**

3 **SECTION 7.34.** Local boards of education may use up to ten percent (10%)
4 of State funds allocated for staff development to contract with Regional Education
5 Services Alliances without such funds being subject to the provisions of G.S.
6 115C-105.30.

7 Additional funds distributed pursuant to G.S. 115C-105.30 may also be used
8 to contract with Regional Education Services Alliances.

9
10 Requested by: Senators Hagan, Lucas, Metcalf, Garrou, Dalton

11 **PILOT PROGRAMS ON FINANCIAL LITERACY**

12 **SECTION 7.35.** The State Board of Education shall establish a pilot
13 program authorizing and assisting up to five local school administrative units in the
14 implementation of programs on teaching personal financial literacy. The purpose of the
15 pilot program is to determine the best methods of equipping students with the
16 knowledge and skills they need, before they become self-supporting, to make critical
17 decisions regarding their personal finances. The components of personal financial
18 literacy covered in the pilot program shall include, at a minimum, consumer financial
19 education, personal finance, and personal credit.

20 Prior to selecting the pilot units, the State Board of Education shall develop a
21 curriculum, materials, and guidelines for local boards of education to use in
22 implementing a program of instruction on personal financial literacy. The State Board
23 shall also provide information to local boards of education on securing public and
24 private grant funds and on using other public and private assets to implement the
25 instructional program.

26 The State Board of Education shall report to the Joint Legislative Education
27 Oversight Committee prior to January 1, 2004, on the implementation of the program in
28 the pilot units.

29
30 **PART VIII. COMMUNITY COLLEGES**

31
32 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

33 **COMMUNITY COLLEGE FUNDING FLEXIBILITY**

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

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

45
46 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

47 **FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS**

48 **SECTION 8.2.** Notwithstanding G.S. 143-23 or any other provision of law,
49 the State Board of Community Colleges may use salary reserve funds and other funds,
50 and may transfer funds within the Community College System Office continuation
51 budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal
52 year.

53
54 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

1 **STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT**
2 **FLEXIBILITY**

3 **SECTION 8.3.** Within 30 days of the date this act becomes law, the State
4 Board of Community Colleges shall notify each college of the amount the college must
5 reduce from State General Fund appropriations. The State Board shall determine the
6 amount of the reduction for each unit on the basis of FTE or another method that
7 accounts for the unique needs of specific colleges.

8 Each college shall report to the State Board of Community Colleges on the
9 discretionary budget reductions it has identified for the college within 60 days of the
10 date this act becomes law. No later than December 31, 2003, the State Board of
11 Community Colleges shall make a summary report to the Office of State Budget and
12 Management and the Fiscal Research Division on all reductions made by the colleges to
13 achieve this reduction.

14 For fiscal year 2003-2004, the General Assembly urges local college
15 administrators to make every effort to reduce spending whenever and wherever such
16 budget reductions are appropriate and as long as the targeted reductions do not directly
17 impact classroom services or those services that are identified in this act as a high-need
18 area for the State. If reductions to the allotment categories listed in this paragraph are
19 necessary in order to meet the reduction target, the local college administration shall
20 submit an explanation of the anticipated impact of the reductions to student services
21 along with the budget reductions to the State Board of Community Colleges.

22 By February 15, 2004, for fiscal year 2004-2005, the State Board of
23 Community Colleges will determine the changes to the allotment categories to make
24 such reductions permanent.

25
26 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

27 **REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION**
28 **OR FOCUSED INDUSTRIAL TRAINING**

29 **SECTION 8.4.** Of the funds appropriated to the North Carolina Community
30 College System for the 2003-2005 biennium, the State Board of Community Colleges
31 may use up to one hundred thousand dollars (\$100,000) each year to pay registration
32 fees and material costs for Occupational Continuing Education or Focused Industrial
33 Training safety courses provided to companies that (i) are eligible to participate in the
34 Focused Industrial Training Program, (ii) have less than 150 employees, and (iii) are
35 found by community college representatives and regional customized training directors
36 to face challenges in paying these fees and costs. These funds shall not be expended
37 without the prior approval of the North Carolina Community College System Office,
38 Division of Economic and Workforce Development.

39
40 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

41 **SUMMER SCHOOL FUNDING**

42 **SECTION 8.5.** The General Assembly encourages the North Carolina
43 Community Colleges System to use funds appropriated to support summer term
44 curriculum FTE to address issues associated with worker shortages in high-needs
45 industries such as (i) Business Technology, (ii) Health Sciences, (iii) Child Care
46 Training, and (iv) Public Service Technologies including law enforcement, fire
47 protection, and education.

48
49 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

50 **CARRY FORWARD FOR EQUIPMENT**

51 **SECTION 8.6.(a)** Subject to cash availability, the North Carolina
52 Community Colleges System may carry forward an amount not to exceed five million
53 dollars (\$5,000,000) of the operating funds held in reserve that were not reverted in
54 fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges'

1 Equipment Reserve Fund. These funds should be distributed to colleges consistent with
2 G.S. 115D-31.

3 **SECTION 8.6.(b)** This section becomes effective June 30, 2003.
4

5 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

6 **HOSIERY CENTER FUNDS**

7 **SECTION 8.7.** Notwithstanding any other provision of law, all fees
8 collected by the Hosiery Technology Center of Catawba Valley Community College for
9 the testing of hosiery products shall be retained by the Center and used for the
10 operations of the Center. Purchases made by the Center using these funds are not
11 subject to the provisions of Article 3 of Chapter 143 of the General Statutes.
12

13 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

14 **SCHOLARSHIPS FOR PROSPECTIVE TEACHERS**

15 **SECTION 8.8.** Of the funds appropriated in this act to the State Board of
16 Community Colleges, the State Board may use up to one million dollars (\$1,000,000)
17 for a nonrecurring grant to the North Carolina Community College Foundation. These
18 funds shall be used to match the Glaxo Smith Kline Foundation challenge grant
19 establishing a two million dollar (\$2,000,000) endowment for the creation of a new
20 scholarship program for prospective teachers enrolled in baccalaureate completion
21 programs at State community college campuses and for the development of teacher
22 preparation courses.

23 This provision is contingent upon receipt of one million dollars (\$1,000,000)
24 for this purpose from the Glaxo Smith Kline Foundation and applies only to the
25 2003-2004 fiscal year.
26

27 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

28 **MANAGEMENT INFORMATION SYSTEM FUNDS**

29 **SECTION 8.9.(a)** Funds appropriated for the Community Colleges System
30 Office Management Information System shall not revert at the end of the 2002-2003
31 and 2003-2004 fiscal years but shall remain available until expended.

32 **SECTION 8.9.(b)** This section becomes effective June 30, 2003.
33

34 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

35 **USE OF LITERACY FUNDS FOR LITERACY LABS**

36 **SECTION 8.10.** Notwithstanding any other provision of law, a local
37 community college may use up to five percent (5%) of the Literacy Funds allocated to it
38 by the State Board of Community Colleges to procure computers for literacy labs.
39

40 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

41 **FACULTY AND PROFESSIONAL STAFF SALARIES**

42 **SECTION 8.11.** Three million two hundred fifty thousand dollars
43 (\$3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall
44 be used to increase faculty and professional staff salaries by an average of one-half
45 percent (0.5%). These increases are in addition to the one and eighty-one hundredths
46 percent (1.81%) provided by Section 30.11 of this act. These funds shall be used to
47 increase faculty and professional staff salaries by an average of at least two and
48 thirty-one hundredths percent (2.31%). Colleges may provide additional increases from
49 funds available.

50 The State Board of Community Colleges shall adopt rules to ensure that these
51 funds are used only to move faculty and professional staff to the respective national
52 averages. The funds shall not be transferred by the State Board or used for any other
53 budget purpose by the community colleges.
54

55 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT

SECTION 8.12.(a) The General Assembly finds that (i) there is a general sentiment expressed by students that the Comprehensive Articulation Agreement adopted by the Board of Governors of The University of North Carolina and the State Board of Community Colleges should be improved and (ii) over the past five years, there have been many suggestions for improving the Comprehensive Articulation Agreement as well as recommendations for new directions in which the Comprehensive Articulation Agreement should be developed.

SECTION 8.12.(b) The Joint Legislative Education Oversight Committee shall contract with a credible independent source, individual, or organization to study the Comprehensive Articulation Agreement. The contractor shall not be (i) a current employee of The University of North Carolina, Office of the President, the North Carolina Community College System, or any of the North Carolina independent schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a current or past member of the Transfer Advisory Committee.

SECTION 8.12.(c) The study by the contractor shall:

- (1) Be consistent with the standards of Southern Association of Colleges and Schools, Commission on Colleges, on educational quality and institutional effectiveness;
- (2) Be designed to provide an accurate and credible assessment of the effectiveness of the Comprehensive Articulation Agreement during its initial five years of existence relative to the intent of its authorizing legislation;
- (3) Be based on qualitative as well as quantitative information and data;
- (4) Take no more than four months from initiation to completion;
- (5) Include input from college transfer students, counselors, faculty, and administration from both systems.

SECTION 8.12.(d) The contractor's report shall:

- (1) Adequately reflect the study's methodology, sources of information, purpose and scope, analyses, evaluative assessments, recommendations, and conclusions;
- (2) State any known deficiencies or limitations of the study;
- (3) Be presented in both a printed form and an electronic version; and
- (4) Provide recommendations for improving the Comprehensive Articulation Agreement.

SECTION 8.12.(e) The contractor shall submit a written progress report every four weeks to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochaIRS of the Transfer Advisory Committee. The contractor shall complete the report within four months. At the completion of the study, the contractor shall submit a draft of the report document to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochaIRS of the Transfer Advisory Committee for review.

SECTION 8.12.(f) Within 30 days of completing the study, the contractor shall submit a final report to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochaIRS of the Transfer Advisory Committee. The Joint Legislative Education Oversight Committee, vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office may, in their discretion, schedule a formal presentation of the report when it is submitted.

1 **SECTION 8.12.(g)** The University of North Carolina, Office of the
2 President, and the North Carolina Community College System shall provide the
3 contractor with access and use of information databases to the extent that such access
4 and use is necessary for the study and does not violate legal and ethical codes or create
5 disruptions of normal operations.

6 **SECTION 8.12.(h)** The University of North Carolina, Office of the
7 President, and the North Carolina Community College System shall each transfer
8 thirty-five thousand dollars (\$35,000) to the Joint Legislative Education Oversight
9 Committee to carry out this study.

10
11 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

12 **AUTOMOTIVE TRAINING INCENTIVE**

13 **SECTION 8.13.** Of the funds appropriated in this act for the State Board of
14 Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five
15 thousand dollars (\$125,000) shall be used for a nonrecurring grant to the North Carolina
16 Community College Foundation provided that a like amount is provided by the North
17 Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar
18 basis. The North Carolina Community College Foundation shall use these funds to
19 provide incentive programming at the colleges that offer Automotive Systems
20 Technology. The incentive programming shall consist of one or more of the following:

- 21 (1) Increasing awareness of careers available in the franchised automobile
22 and truck industry in North Carolina;
- 23 (2) Increasing awareness within North Carolina's middle school and high
24 school guidance counselors and workforce development coordinators;
- 25 (3) Increasing public awareness of teaching opportunities in North
26 Carolina's high schools and community colleges in the area of
27 automotive technology;
- 28 (4) Increasing opportunities in continuing education for automotive
29 technology high school and community college instructors;
- 30 (5) Providing a program coordinator to work with the franchised car and
31 truck dealers and with community college and high school automotive
32 professionals to ensure that the automotive curriculum is uniform and
33 appropriate; and
- 34 (6) Increasing resources to assist high schools and community colleges in
35 gaining and maintaining certification for their respective automotive
36 technology programs.

37
38 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

39 **COMMUNITY COLLEGES TRUST FUND**

40 **SECTION 8.14.(a)** Article 3 of Chapter 115D of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 115D-42. North Carolina Community Colleges Instructional Trust Fund.**

43 (a) There is established the North Carolina Community Colleges Instructional
44 Trust Fund. The purpose of this Trust Fund is to supplement the funds raised by
45 community college foundations to enhance the academic missions of community
46 colleges.

47 (b) The State Board of Community Colleges is authorized to allocate funds from
48 the Instructional Trust Fund to the community colleges and to adopt rules to implement
49 the provisions of this section.

50 (c) State funds from the Trust Fund and matching funds raised by foundations
51 shall be used by the board of trustees of a community college only to enhance the
52 academic mission of the college. State funds shall be used only for scholarships or
53 financial aid for needy students.

54 Expenditures of the matching funds raised by foundations shall directly relate to
55 education and shall be used only for:

- 1 (1) Resource center materials;
2 (2) Professional development of instructional faculty and staff in cases in
3 which (i) professional development will improve the quality of
4 performance provided by the employee and (ii) the employee makes a
5 commitment to remain at the college for a prescribed period of time;
6 (3) Professional development of instructional faculty and staff in cases in
7 which professional development is necessary to enhance the
8 employee's ability to meet newly mandated instructional or
9 performance requirements; and
10 (4) Other purposes authorized by the State Board of Community Colleges
11 that are consistent with the college's mission.

12 (d) Every two dollars (\$2.00) raised by the community college foundations for
13 the Trust Fund during the 2003-2004 fiscal year shall be matched with one dollar
14 (\$1.00) of State funds. The maximum matching contribution from the State shall not
15 exceed twenty-five thousand dollars (\$25,000) for each of the 58 community colleges.
16 These funds shall be reserved for each community college and held in escrow in the
17 Trust Fund. A community college foundation may apply for matching funds after it
18 raises twenty-five thousand dollars (\$25,000). The chairperson of each community
19 college foundation shall certify to the North Carolina Community College System
20 Office that (i) new funds have been raised by the community college foundation to
21 match the amount of funds held in escrow in the Trust Fund, (ii) the amount raised by
22 the community college foundation has not been used previously for matching purposes,
23 (iii) the amount raised by the college shall be used only as provided in subsection (c) of
24 this section, and (iv) matching State funds shall be used only for scholarships or
25 financial aid for needy students.

26 (e) The State Board of Community Colleges may request an audit of the State
27 funds expended under this section from any community college foundation."

28 **SECTION 8.14.(b)** There is appropriated from the Escheat Fund to the State
29 Board of Community Colleges the sum of one million four hundred fifty thousand
30 dollars (\$1,450,000) for the 2003-2004 fiscal year to provide matching State funds for
31 the Community Colleges Instructional Trust Fund established in subsection (a) of this
32 section.
33

34 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

35 **FOCUSED INDUSTRIAL TRAINING FUNDS**

36 **SECTION 8.15.** Notwithstanding any other provision of law, for the
37 2003-2004 fiscal year only, the State Board of Community Colleges may transfer up to
38 one million four hundred fifty thousand dollars (\$1,450,000) from New and Expanding
39 Industry Training to Focused Industrial Training.
40

41 **PART IX. UNIVERSITIES**

42
43 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

44 **UNC FLEXIBILITY GUIDELINES**

45 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
46 the Board of Governors of The University of North Carolina on the reductions made to
47 the General Fund budget codes in order to meet the reduction reserve amounts for that
48 institution. The President of The University of North Carolina shall report to the Board
49 of Governors of The University of North Carolina on the reductions made to the
50 General Fund budget codes controlled by the Board in order to meet the reduction
51 reserve amounts for those entities. The Board of Governors shall make a summary
52 report to the Office of State Budget and Management and the Fiscal Research Division
53 by December 31, 2003, on all reductions made by these entities and constituent
54 institutions in order to reduce the budgets by the targeted amounts.
55

1 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

2 **ESCHEAT FUNDS**

3 **SECTION 9.2.(a)** There is appropriated from the Escheat Fund to the Board
4 of Governors of The University of North Carolina the sum of twenty-three million
5 seven hundred fifty thousand dollars (\$23,750,000) for each year of the 2003-2005
6 fiscal biennium and to the State Board of Community Colleges the sum of ten million
7 two hundred sixty-two thousand eight hundred six dollars (\$10,262,806) for each year
8 of the 2003-2005 fiscal biennium. These funds shall be allocated by the State
9 Educational Assistance Authority for need-based student financial aid in accordance
10 with G.S. 116B-7 and this act.

11 **SECTION 9.2.(b)** The Director of the Budget shall include General Fund
12 appropriations in the amounts provided in subsection (a) of this section in the proposed
13 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S.
14 116B-7.

15 **SECTION 9.2.(c)** The State Education Assistance Authority (SEAA) shall
16 perform all of the administrative functions necessary to implement the program of
17 financial aid. The SEAA shall conduct periodic evaluations of expenditures of the
18 scholarship programs to determine if allocations are utilized to ensure access to
19 institutions of higher learning and to meet the goals of the respective programs. The
20 SEAA may make recommendations for redistribution of funds to The University of
21 North Carolina and the President of the Community College System regarding their
22 respective scholarship programs, who then may authorize redistribution of unutilized
23 funds for a particular fiscal year.

24 **SECTION 9.2.(d)** All obligations to students for uses of the funds set out in
25 subsection (a) of this section that were made prior to the effective date of this section
26 shall be fulfilled as to students who remain eligible under the provisions of the
27 respective programs.

28
29 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

30 **UNC BOND PROJECT MODIFICATIONS**

31 **SECTION 9.3.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General
32 Assembly finds that it is in the best interest of the State to respond to current
33 educational and research program requirements at Elizabeth City State University by
34 substituting a project entitled "Campus Improvements" for "Doles Residence Hall –
35 Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as a residence
36 hall that has been provided for from housing receipts and campus infrastructure
37 improvements will allow energy conservation and savings. Section 2(a) of S.L. 2000-3
38 is therefore amended in the portion under Elizabeth City State University by deleting
39 "Doles Residence Hall – Comprehensive Renovation...\$1,722,500" and by substituting
40 "Campus Improvements...\$1,722,500".

41 **SECTION 9.3.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General
42 Assembly finds that it is in the best interest of the State to respond to current
43 educational and research program requirements at North Carolina Central University,
44 due to increasing enrollment growth, by substituting a project entitled "Pearson
45 Cafeteria – Expansion" for "Pearson Cafeteria – Comprehensive Renovation" as
46 contained in Section 2(a) of S.L. 2000-3, by deleting a project entitled "Old Senior
47 Dorm – Conversion to Academic Use" as contained in Section 2(a) of S.L. 2000-3 and
48 by transferring the funds of two million one hundred thirty thousand seven hundred
49 dollars (\$2,130,700) from the project entitled "Old Senior Dorm – Conversion to
50 Academic Use", as contained in Section 2(a) of S.L. 2000-3, and by transferring a
51 portion of the funds from a project entitled "Farrison-Newton Building –
52 Comprehensive Renovation of Classroom Building", as contained in Section 2(a) of
53 S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended
54 as follows:

- 1 (1) In the portion entitled "Pearson Cafeteria – Comprehensive
2 Renovation" under North Carolina Central University, by deleting
3 "Comprehensive Renovation" and by substituting "Expansion" and by
4 adding \$7,730,700 for the project so that it reads "Pearson Cafeteria –
5 Expansion...\$8,994,300".
- 6 (2) In the portion under North Carolina Central University, by deleting
7 "Old Senior Dorm – Conversion to Academic Use...\$2,130,700".
- 8 (3) In the portion entitled "Farrison-Newton Building – Comprehensive
9 Renovation of Classroom Building" under North Carolina Central
10 University, by decreasing by \$5,600,000 the \$7,048,700 for the project
11 so that it reads "Farrison-Newton Building – Comprehensive
12 Renovation of Classroom Building...\$1,448,700".

13 **SECTION 9.3.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
14 Assembly finds that it is in the best interest of the State to respond to current
15 educational and research program requirements at the University of North Carolina at
16 Asheville by substituting a project entitled "Carmichael Hall Classroom Building –
17 Demolition and New Construction" for "Carmichael Hall Classroom Building –
18 Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as it has been
19 determined that it is more cost-effective to replace this facility than to renovate it.
20 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of
21 North Carolina at Asheville by deleting "Carmichael Hall Classroom Building –
22 Comprehensive Renovation" and by adding "Carmichael Hall Classroom Building –
23 Demolition and New Construction".

24 **SECTION 9.3.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
25 Assembly finds that it is in the best interest of the State to respond to current
26 educational and research program requirements at the University of North Carolina at
27 Pembroke, due to enrollment growth higher than projected, by adding a project entitled
28 "General Purpose Classroom Building" to Section 2(a) of S.L. 2000-3 and by
29 transferring a portion of the funds from the project entitled "Residence/Dining Hall –
30 Replacement of Jacobs & Wellons Halls", as contained in Section 2(a) of S.L. 2000-3,
31 to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended in the portion
32 under the University of North Carolina at Pembroke by substituting "Residence/Dining
33 Hall – Replacement of Jacobs & Wellons Halls...\$325,300" and by adding "General
34 Purpose Classroom Building...\$7,375,000".

35 **SECTION 9.3.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General
36 Assembly finds that it is in the best interest of the State to respond to current
37 educational and research program requirements at Winston-Salem State University by
38 substituting a project entitled "Anderson Center – Comprehensive Renovation" for
39 "Anderson Center – Comprehensive Renovation & Change of Use for Early
40 Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, by
41 adding a project entitled "Coltrane Hall – Renovation to House Gerontology", by
42 transferring a portion of the funds from the project entitled "Anderson Center –
43 Comprehensive Renovation & Change of Use for Early Childhood/Gerontology
44 Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled
45 "Coltrane Hall – Renovation to House Gerontology", by adding a project entitled "New
46 Facility for the Early Childhood Program", and by transferring a portion of the funds
47 from the project entitled "Anderson Center – Comprehensive Renovation & Change of
48 Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L.
49 2000-3, to the new project entitled "New Facility for the Early Childhood Program".
50 Section 2(a) of S.L. 2000-3 is therefore amended as follows:

- 51 (1) In the portion entitled "Anderson Center – Comprehensive Renovation
52 & Change of Use for Early Childhood/Gerontology Programs" under
53 Winston-Salem State University, by deleting "& Change of Use for
54 Early Childhood/Gerontology Programs" and by decreasing by \$1.9

1 million the \$6,917,900 for the project so that it reads "Anderson
2 Center – Comprehensive Renovation...\$5,017,900".

3 (2) In the portion under Winston-Salem State University, by adding a new
4 project "Coltrane Hall – Renovation to House
5 Gerontology...\$400,000".

6 (3) In the portion under Winston-Salem State University, by adding a new
7 project "New Facility for the Early Childhood Program...\$1,500,000".

8 **SECTION 9.3.(f)** Pursuant to Section 2(b) of S.L. 2000-3, the General
9 Assembly finds that it is in the best interest of the State to respond to current
10 educational and research program requirements at Winston-Salem State University by
11 substituting a project entitled "New Student Health Center" for "Health Center Bldg. &
12 Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in
13 Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health
14 facility, as it has been determined that the two existing buildings are in poor condition
15 and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is
16 therefore amended in the portion under Winston-Salem State University by deleting
17 "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student
18 Health" and by substituting "New Student Health Center".

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

22 **SECTION 9.3.(h)** This section becomes effective January 1, 2004.
23

24 Requested by: Senators Hagan, Garrou, Dalton

25 **SCHOOL OF SCIENCE MATH/COLLEGE SCHOLARSHIPS**

26 **SECTION 9.4.(a)** Article 29 of Chapter 116 of the General Statutes is
27 amended by adding a new section to read:

28 **"§ 116-238.1. Full tuition grant for graduates who attend a State university.**

29 (a) There is granted to each State resident who graduates from the North Carolina
30 School of Science and Mathematics and who enrolls as a full-time student in a
31 constituent institution of The University of North Carolina a sum to be determined by
32 the General Assembly as a tuition grant. The tuition grant shall be for four consecutive
33 academic years and shall cover the tuition cost at the constituent institution in which the
34 student is enrolled. The tuition grant shall be distributed to the student as provided by
35 this section.

36 (b) The tuition grants provided for in this section shall be administered by the
37 State Education Assistance Authority pursuant to rules adopted by the State Education
38 Assistance Authority not inconsistent with this section. The State Education Assistance
39 Authority shall not approve any grant until it receives proper certification from the
40 appropriate constituent institution that the student applying for the grant is an eligible
41 student. Upon receipt of the certification, the State Education Assistance Authority shall
42 remit at the times it prescribes the grant to the constituent institution on behalf, and to
43 the credit, of the student.

44 (c) In the event a student on whose behalf a grant has been paid is not enrolled
45 and carrying a minimum academic load as of the tenth classroom day following the
46 beginning of the school term for which the grant was paid, the institution shall refund
47 the full amount of the grant to the State Education Assistance Authority.

48 (d) In the event there are not sufficient funds to provide each eligible student
49 with a full grant:

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

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

4 (e) Any remaining funds shall revert to the General Fund."

5 **SECTION 9.4.(b)** This section applies to students graduating in the
6 2004-2005 academic year and each subsequent academic year.

7
8 Requested by: Senators Garrou, Dalton, Hagan

9 **FILM INDUSTRY FEASIBILITY STUDY**

10 **SECTION 9.5.** The Board of Governors of The University of North Carolina
11 shall conduct a feasibility study to assess the strategic opportunities in the arts and
12 entertainment industry in Forsyth County and its environs in the creation of programs,
13 facilities, job opportunities, and tourism demand related to the film industry. The study
14 shall include, but not be limited to: (i) the development of a program in digital media,
15 and (ii) the development of a tourist destination film industry studio backlot.

16 The Board of Governors shall consult with the faculty and staff of the North
17 Carolina School of the Arts and other experts in the arts and entertainment fields in
18 conducting the feasibility study. The Board of Governors shall report the results of the
19 study and any recommendations the Board makes related to the study to the 2003
20 General Assembly by April 1, 2004.

21
22 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

23 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

24 **SECTION 9.6.(a)** G.S. 116-41.15 reads as rewritten:

25 "**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
26 **administration.**

27 (a) As used in this Part, "focused growth institution" means Elizabeth City State
28 University, Fayetteville State University, North Carolina Agricultural and Technical
29 University, North Carolina Central University, the University of North Carolina at
30 Pembroke, Western Carolina University, and Winston-Salem State University. As used
31 in this Part, "special needs institution" means the North Carolina School of the Arts and
32 the University of North Carolina at Asheville.

33 (b) For constituent institutions other than focused growth institutions and special
34 needs institutions, ~~The~~the amount appropriated to the trust shall be allocated by the
35 Board as follows:

36 (1) On the basis of one three hundred thirty-four thousand dollar
37 (\$334,000) challenge grant for each six hundred sixty-six thousand
38 dollars (\$666,000) raised from private sources; or

39 (2) On the basis of one one hundred sixty-seven thousand dollar
40 (\$167,000) challenge grant for each three hundred thirty-three
41 thousand dollars (\$333,000) raised from private sources.

42 If an institution chooses to pursue the use of the allocated challenge grant funds
43 described in either subdivision (1) or subdivision (2) of this ~~section~~subsection, the
44 funds shall be matched on a two-to-one basis.

45 (c) For focused growth institutions and special needs institutions, subsection (b)
46 of this section shall be applied such that the amount appropriated to the trust shall be
47 allocated by the Board on a one-to-one basis instead of a one-to-two basis.

48 (d) Matching funds shall come from contributions made after July 1, 1985, and
49 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent
50 institution's board of trustees shall establish its own Distinguished Professors
51 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36
52 to function as a depository for private contributions and for the State matching funds for
53 the challenge grants. The State matching funds shall be transferred to the constituent
54 institution's Endowment Fund upon notification that the institution has received and
55 deposited the appropriate amount required by this section in its own Distinguished

1 Professors Endowment Trust Fund. Only the net income from that account shall be
2 expended in support of the distinguished professorship thereby created."

3 **SECTION 9.6.(b)** G.S. 116-41.16 reads as rewritten:

4 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
5 **commitments.**

6 (a) For constituent institutions other than focused growth institutions and special
7 needs institutions, Contributions-contributions may also be eligible for matching if there
8 is:

9 (1) A commitment to make a donation of at least six hundred sixty-six
10 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
11 initial payment of one hundred eleven thousand dollars (\$111,000) to
12 receive a grant described in G.S. 116-41.15(b)(1); or

13 (2) A commitment to make a donation of at least three hundred
14 thirty-three thousand dollars (\$333,000), as prescribed by G.S.
15 143-31.4, and an initial payment of fifty-five thousand five hundred
16 dollars (\$55,500) to receive a grant described in G.S. 116-41.15(b)(2);

17 and if the initial payment is accompanied by a written pledge to provide the balance
18 within five years after the date of the initial payment. Each payment on the balance shall
19 be no less than the amount of the initial payment and shall be made on or before the
20 anniversary date of the initial payment. Pledged contributions may not be matched prior
21 to the actual collection of the total funds. Once the income from the institution's
22 Distinguished Professors Endowment Trust Fund can be effectively used pursuant to
23 G.S. 116-41.17, the institution shall proceed to implement plans for establishing an
24 endowed chair.

25 (b) For focused growth institutions and special needs institutions, subsection (a)
26 of this section is modified such that contributions may be eligible for matching based on
27 a schedule to be adopted by the Board of Governors such that at least one-sixth of the
28 commitment will be donated each year."

29 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

30 **SUBPART 1. ADMINISTRATION**

31 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

32 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

33 **SECTION 10.1.(a)** There is appropriated from funds and interest thereon
34 received from the case of United States v. Exxon that remain in the Special Reserve for
35 Oil Overcharge Funds to the Department of Health and Human Services the sum of one
36 million dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the
37 Weatherization Assistance Program.

38 **SECTION 10.1.(b)** Any funds remaining in the Special Reserve for Oil
39 Overcharge Funds after the allocation made pursuant to subsection (a) of this section
40 may be expended only as authorized by the General Assembly. All interest or income
41 accruing from all deposits or investments of cash balances shall be credited to the
42 Special Reserve for Oil Overcharge Funds.

43 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

44 **OFFICE OF POLICY AND PLANNING**

45 **SECTION 10.2.(a)** To promote coordinated policy development and
46 strategic planning for the State's health and human services systems, the Secretary of
47 Health and Human Services shall establish an Office of Policy and Planning from
48 existing resources across the Department. The Director of the Office of Policy and
49 Planning shall report directly to the Secretary and shall have the following
50 responsibilities:
51
52
53
54

- 1 (1) Coordinate the development of departmental policies, plans, and rules,
2 in consultation with the Divisions of the Department.
- 3 (2) Development of a departmental process for the development and
4 implementation of new policies, plans, and rules.
- 5 (3) Development of a departmental process for the review of existing
6 policies, plans, and rules to ensure that departmental policies, plans,
7 and rules are relevant.
- 8 (4) Coordination and review of all departmental policies before
9 dissemination to ensure that all policies are well-coordinated within
10 and across all programs.
- 11 (5) Implementation of ongoing strategic planning that integrates budget,
12 personnel, and resources with the mission and operational goals of the
13 Department.
- 14 (6) Review, disseminate, monitor, and evaluate best practice models.

15 **SECTION 10.2.(b)** Under the direction of the Secretary of Health and
16 Human Services, the Director of the Office of Policy and Planning shall have the
17 authority to direct Divisions, offices, and programs within the Department to conduct
18 periodic reviews of policies, plans, and rules and shall advise the Secretary when it is
19 determined to be appropriate or necessary to modify, amend, and repeal departmental
20 policies, plans, and rules. All policy and management positions within the Office of
21 Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

22
23 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

24 **WEATHERIZATION ASSISTANCE PROGRAM**

25 **SECTION 10.3.** Article 2 of Chapter 108A of the General Statutes is
26 amended by adding the following new Part to read:

27 "Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement
28 Program.

29 "**§ 108A-70.30. Weatherization Assistance Program and Heating/Air Repair and**
30 **Replacement Program.**

31 The Department may administer the Weatherization Assistance Program for
32 Low-Income Families and the Heating/Air Repair and Replacement Program functions.
33 Nothing in this Part shall be construed as obligating the General Assembly to
34 appropriate funds for the Program or as entitling any person to services under the
35 Program."

36
37 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

38 **NONMEDICAID REIMBURSEMENT CHANGES**

39 **SECTION 10.4.** Providers of medical services under the various State
40 programs, other than Medicaid, offering medical care to citizens of the State shall be
41 reimbursed at rates no more than those under the North Carolina Medical Assistance
42 Program.

43 The Department of Health and Human Services may reimburse hospitals at
44 the full prospective per diem rates without regard to the Medical Assistance Program's
45 annual limits on hospital days. When the Medical Assistance Program's per diem rates
46 for inpatient services and its interim rates for outpatient services are used to reimburse
47 providers in nonmedicaid medical service programs, retroactive adjustments to claims
48 already paid shall not be required.

49 Notwithstanding the provisions of paragraph one, the Department of Health
50 and Human Services may negotiate with providers of medical services under the various
51 Department of Health and Human Services programs, other than Medicaid, for rates as
52 close as possible to Medicaid rates for the following purposes: contracts or agreements
53 for medical services and purchases of medical equipment and other medical supplies.
54 These negotiated rates are allowable only to meet the medical needs of its nonmedicaid

1 eligible patients, residents, and clients who require such services which cannot be
 2 provided when limited to the Medicaid rate.

3 Maximum net family annual income eligibility standards for services in these
 4 programs shall be as follows:

	<u>Medical Eye</u>	<u>Rehabilitation Except</u>	
<u>Family Size</u>	<u>Care Adults</u>	<u>DSB Over 55 Grant</u>	<u>Other</u>
1	\$4,860	\$8,364	\$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

17 The eligibility level for children in the Medical Eye Care Program in the
 18 Division of Services for the Blind shall be one hundred percent (100%) of the federal
 19 poverty guidelines, as revised annually by the United States Department of Health and
 20 Human Services and in effect on July 1 of each fiscal year. The eligibility level for
 21 adults 55 years of age or older who qualify for services through the Division of Services
 22 for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent
 23 (200%) of the federal poverty guidelines, as revised annually by the United States
 24 Department of Health and Human Services and in effect on July 1 of each fiscal year.
 25 The eligibility level for adults in the Atypical Antipsychotic Medication Program in the
 26 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
 27 shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised
 28 annually by the United States Department of Health and Human Services and in effect
 29 on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical
 30 Antipsychotic Medication Program who become gainfully employed may continue to be
 31 eligible to receive State support, in decreasing amounts for the purchase of atypical
 32 antipsychotic medication and related services up to three hundred percent (300%) of the
 33 poverty level.

34 State financial participation in the Atypical Antipsychotic Medication
 35 Program for those enrollees who become gainfully employed is as follows:

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

43 The Department of Health and Human Services shall contract at, or as close
 44 as possible to, Medicaid rates for medical services provided to residents of State
 45 facilities of the Department.

47 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

48 **SENIOR CARES PROGRAM ADMINISTRATION**

49 **SECTION 10.5.** The Department of Health and Human Services may
 50 administer the "Senior Cares" prescription drug access program approved by the Health
 51 and Wellness Trust Fund Commission and funded from the Health and Wellness Trust
 52 Fund.

54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

55 **PHYSICIAN SERVICES**

1 **SECTION 10.6.** With the approval of the Office of State Budget and
2 Management, the Department of Health and Human Services may use funds
3 appropriated in this act for across-the-board salary increases and performance pay to
4 offset similar increases in the costs of contracting with private and independent
5 universities for the provision of physician services to clients in facilities operated by the
6 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
7 This offsetting shall be done in the same manner as is currently done with the
8 constituent institutions of The University of North Carolina.
9

10 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

11 **LIABILITY INSURANCE**

12 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human
13 Services, the Secretary of the Department of Environment and Natural Resources, and
14 the Secretary of the Department of Correction may provide medical liability coverage
15 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of
16 the Departments licensed to practice medicine or dentistry, all licensed physicians who
17 are faculty members of The University of North Carolina who work on contract for the
18 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
19 for incidents that occur in Division programs, and on behalf of physicians in all
20 residency training programs from The University of North Carolina who are in training
21 at institutions operated by the Department of Health and Human Services. This
22 coverage may include commercial insurance or self-insurance and shall cover these
23 individuals for their acts or omissions only while they are engaged in providing medical
24 and dental services pursuant to their State employment or training.

25 **SECTION 10.7.(b)** The coverage provided under this section shall not cover
26 any individual for any act or omission that the individual knows or reasonably should
27 know constitutes a violation of the applicable criminal laws of any state or the United
28 States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of
29 any act amounting to willful or wanton negligence.

30 **SECTION 10.7.(c)** The coverage provided pursuant to this section shall not
31 require any additional appropriations and shall not apply to any individual providing
32 contractual service to the Department of Health and Human Services, the Department of
33 Environment and Natural Resources, or the Department of Correction, with the
34 exception that coverage may include physicians in all residency training programs from
35 The University of North Carolina who are in training at institutions operated by the
36 Department of Health and Human Services and licensed physicians who are faculty
37 members of The University of North Carolina who work for the Division of Mental
38 Health, Developmental Disabilities, and Substance Abuse Services.
39

40 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

41 **BUTNER COMMUNITY LAND RESERVATION**

42 **SECTION 10.8.** The Department of Health and Human Services shall
43 reserve and dedicate the following described land for the construction of a community
44 building and related facilities to serve the Butner Reservation:

45 "Approximately 2 acres, on the east side it borders Central Avenue with a line
46 running along the Wallace Bradshur property on the north back to the tree line next to
47 the ADATC. From there it follows the tree line south and west to and including the
48 softball field. From the softball field it turns east to the State Employees Credit Union
49 and follows the Credit Union property on the south side back to Central Avenue."

50 This land shall be reserved and dedicated for the project which shall be
51 funded with contributions from Granville County, contributions from the residents of
52 the Butner Reservation, the use of cablevision franchise rebate funds received by the
53 Department of Health and Human Services on behalf of the Butner Reservation, and
54 other public and private sources.
55

1 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

2 **DHHS CENTRALIZE INFORMATION TECHNOLOGY OPERATIONS**

3 **SECTION 10.8A.(a)** The Department of Health and Human Services shall
4 conduct a thorough, department-wide examination and analysis of its Information
5 Technology (IT) infrastructure, including IT expenditures and management functions.
6 The purpose of the examination is to enable the General Assembly and the Office of
7 State Budget to readily determine the amount of State funds being expended annually
8 on each and all IT functions. Upon completion of its examination and analysis, the
9 Department shall develop a plan for the establishment of a Central IT Operations Unit
10 encompassing all IT operations and functions that are common to all divisions, offices,
11 and programs of the Department. The Central IT Operations Unit shall be organized
12 such that all IT expenditures and personnel are readily identifiable. The Department
13 may exclude from the Central IT Operations Unit those IT functions that are unique to
14 one or more individual divisions, offices, or programs, provided that such separate IT
15 functions are readily identifiable in terms of expenditures and personnel, and the
16 separation allows for combining the expenditures and personnel data with expenditures
17 and personnel data of the Central IT Operations Unit. The Department shall identify all
18 excluded IT functions and provide reasons why it is more beneficial to the State to
19 exclude those functions from the Central IT Operations Unit.

20 **SECTION 10.8A.(b)** The Office of State Budget and Management and the
21 Department of Health and Human Services shall identify the amount of State
22 appropriations necessary to fully fund from the General Fund the current budget for the
23 Division of Information Resources. Having determined the amount of General Fund
24 dollars needed, the Office of State Budget and Management shall develop and
25 recommend a plan for providing the necessary funds.

26 **SECTION 10.8A.(c)** The Department of Health and Human Services shall
27 report on the development of the Central IT Operations Unit to the Senate
28 Appropriations Committee on Health and Human Services, the House of
29 Representatives Appropriations Subcommittee on Health and Human Services, and the
30 Fiscal Research Division by January 1, 2004. The Office of State Budget and
31 Management shall report on the identification of funds required under subsection (b) of
32 this section to the Senate Appropriations Committee on Health and Human Services, the
33 House of Representatives Appropriations Subcommittee on Health and Human
34 Services, and the Fiscal Research Division by January 1, 2004.

35
36 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

37 **EDUCATION AND AWARENESS OF INFANT HOMICIDE PREVENTION**
38 **ACT**

39 **SECTION 10.8B.(a)** The Department of Health and Human Services,
40 Division of Public Health and the Division of Social Services, shall incorporate
41 education and awareness of the Infant Homicide Prevention Act pursuant to S.L.
42 2001-291, into other State-funded programs at the local level.

43 **SECTION 10.8B.(b)** The Department shall report on its activities to the
44 House of Representatives Appropriations Subcommittee on Health and Human
45 Services, the Senate Appropriations Committee on Health and Human Services, and the
46 Fiscal Research Division not later than April 1, 2004.

47
48 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

49 **MEDICAL CARE COMMISSION TEMPORARY RULE-MAKING**
50 **AUTHORITY EXTENDED**

51 **SECTION 10.8C.** Section 6.(d) of S.L. 2002-160 reads as rewritten:

52 "**SECTION 6.(d)** Notwithstanding 26 NCAC 2C .0102(11), the ~~Commission for~~
53 ~~Health Services and the~~ Medical Care Commission may adopt temporary rules as
54 provided in this section until 1 July ~~2003,2004.~~"
55

1 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

2 **IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY**
3 **SERVICE COORDINATION**

4 **SECTION 10.8D.(a)** In accordance with the recommendations in the final
5 report from the Institute of Medicine Task Force on Long-Term Care and the study
6 report recommendations resulting from S.L. 2001-491, Part XXII, the Department of
7 Health and Human Services shall implement a communications and coordination
8 initiative to support local coordination of long-term care and shall pilot the
9 establishment of local lead agencies to facilitate the long-term care coordination process
10 at the county or regional level. For those counties that voluntarily participate, the local
11 long-term care coordination initiative shall aid in the development of core services,
12 coordinate local services, and streamline access to services. The initiative shall
13 eliminate fragmentation and barriers to information and services; provide a seamless
14 connection among State agencies and local entities, regardless of funding sources; and
15 allow consumers to efficiently and effectively navigate among long-term care services.

16 **SECTION 10.8D.(b)** The Department shall submit an interim report on the
17 pilot project for local long-term care coordination to the North Carolina Study
18 Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

19
20 **SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL**
21 **DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

22
23 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

24 **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE**
25 **ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND**
26 **CAPITAL FUNDING NEEDS AND OLMSTEAD**

27 **SECTION 10.9.** Moneys in the Trust Fund established pursuant to G.S.
28 143-15.3D shall be used to establish or expand community-based services only if
29 sufficient recurring funds can be identified within the Department of Health and Human
30 Services from funds currently budgeted for mental health, developmental disabilities,
31 and substance abuse services, area mental health programs or county programs, or local
32 government.

33
34 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

35 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
36 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL**
37 **ASSEMBLY**

38 **SECTION 10.10.** Section 4 of S.L. 2001-437, as amended by Section 10.30
39 of S.L. 2002-126, reads as rewritten:

40 "SECTION 4. Sections 1.1 through 1.21(b) of this act become effective July 1,
41 2002. Section 2 of this act becomes effective only if funds are appropriated by the ~~2003~~
42 2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1
43 of the fiscal year for which funds are appropriated by the ~~2003-2005~~ General Assembly
44 for that purpose. The remainder of this act is effective when it becomes law."

45
46 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

47 **SUBSTANCE ABUSE PREVENTION SERVICES REPORTING**

48 **SECTION 10.11.** The Department of Health and Human Services shall
49 report on its activities under Section 10.24 of S.L. 2002-126 to the House of
50 Representatives Appropriations Subcommittee on Health and Human Services, the
51 Senate Appropriations Committee on Health and Human Services, and the Fiscal
52 Research Division not later than December 1, 2003.

53
54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

55 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

1 **SECTION 10.12.(a)** In keeping with the United States Supreme Court
2 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services to
3 clients in the least restrictive and most appropriate environment, the Department of
4 Health and Human Services shall develop and implement a plan for the construction of
5 a replacement facility for Dorothea Dix Hospital and for the transition of patients to the
6 community or to other long-term care facilities, as appropriate. The goal is to develop
7 mechanisms and identify resources needed to enable patients and their families to
8 receive the necessary services and supports based on the following guiding principles:

- 9 (1) Individuals shall be provided acute psychiatric care in non-State
10 facilities when appropriate.
- 11 (2) Individuals shall be provided acute psychiatric care in State facilities
12 only when non-State facilities are unavailable.
- 13 (3) Individuals shall receive evidenced-based psychiatric services and care
14 that are cost-efficient.
- 15 (4) The State shall minimize cost shifting to other State and local facilities
16 or institutions.

17 **SECTION 10.12.(b)** The Department of Health and Human Services shall
18 conduct an analysis of the individual patient service needs and shall develop and
19 implement an individual transition plan, as appropriate, for patients in each hospital.
20 The State shall ensure that each individual transition plan, as appropriate, shall take into
21 consideration the availability of appropriate alternative placements based on the needs
22 of the patient and within resources available for the mental health, developmental
23 disabilities, and substance abuse services system. In developing each plan, the
24 Department shall consult with the patient and the patient's family or other legal
25 representative.

26 **SECTION 10.12.(c)** In accordance with the plan established in subsections
27 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
28 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
29 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
30 These funds shall be used to facilitate the transition of clients into appropriate
31 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
32 savings realized through implementation of this section shall be retained by the
33 Department of Health and Human Services, Division of Mental Health, Developmental
34 Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and
35 (b) of this section, and (ii) to support the recurring costs of additional community-based
36 placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

37 **SECTION 10.12.(d)** The Department of Health and Human Services shall
38 submit reports on the status of implementation of this section to the Joint Legislative
39 Commission on Governmental Operations, the Senate Appropriations Committee on
40 Health and Human Services, the House of Representatives Appropriations
41 Subcommittee on Health and Human Services, and the Fiscal Research Division. These
42 reports shall be submitted on December 1, 2003, and May 1, 2004.

43
44 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

45 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

46 **SECTION 10.13.** The Department of Health and Human Services shall
47 report on its continuing implementation of the Comprehensive Treatment Services
48 Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall
49 submit an interim report on December 1, 2003, and a final report not later than April 1,
50 2004, to the House of Representatives Appropriations Subcommittee on Health and
51 Human Services, the Senate Appropriations Committee on Health and Human Services,
52 and the Fiscal Research Division.

53
54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

55 **MENTAL RETARDATION CENTER DOWNSIZING**

1 **SECTION 10.14.(a)** In accordance with the Department of Health and
2 Human Services' plan for downsizing the State's regional mental retardation facilities by
3 four percent (4%) each year, the Department shall implement cost-containment and
4 reduction strategies to ensure the corresponding financial and staff downsizing of each
5 facility. The Department shall manage the client population of the mental retardation
6 centers in order to ensure that placements for ICF/MR level of care shall be made in
7 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last
8 resort and only upon approval of the Department. The corresponding budgets for each
9 of the State mental retardation centers shall be reduced, and positions shall be
10 eliminated as the census of each facility decreases. At no time shall mental retardation
11 center positions be transferred to other units within a facility or assigned nondirect care
12 activities such as outreach.

13 **SECTION 10.14.(b)** Any savings in State appropriations in each year of the
14 2003-2005 fiscal biennium that result from reductions in beds or services shall be
15 applied as follows:

- 16 (1) Nonrecurring savings shall be placed in the Trust Fund for Mental
17 Health, Developmental Disabilities, and Substance Abuse Services and
18 Bridge Funding Needs and shall be used to facilitate the transition of
19 clients into appropriate community-based services and support in
20 accordance with G.S. 143-15.3D, and
- 21 (2) Recurring savings realized through implementation of this section
22 shall be retained by the Department of Health and Human Services,
23 Division of Mental Health, Developmental Disabilities, and Substance
24 Abuse Services to support the recurring costs of additional
25 community-based placements from Division facilities in accordance
26 with Olmstead vs. L.C. & E.W. In determining the savings in this
27 section, savings shall include all savings realized from the downsizing
28 of the State mental retardation centers including both the savings in
29 direct State appropriations in the budgets of the State mental
30 retardation centers as well as the savings in the State matching portion
31 of reduced Medicaid payments associated with downsizing.

32 **SECTION 10.14.(c)** The Department of Health and Human Services shall
33 report on its progress in complying with this section to the Senate Appropriations
34 Committee on Health and Human Services, the House of Representatives
35 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
36 Division. The progress report shall be submitted not later than January 15, 2004, and a
37 final report submitted not later than May 1, 2004.

38 **SECTION 10.14.(d)** Downsizing of mental retardation centers which occurs
39 in the 2003-2004 fiscal year shall be maintained for the 2004-2005 fiscal year. Effective
40 July 1, 2003, downsizing shall be accomplished in accordance with this section and the
41 State Plan for Mental Health, Developmental Disabilities, and Substance Abuse
42 Services. All savings resulting from downsizing occurring on and after July 1, 2003,
43 shall be utilized as set forth in subsection (b) of this section.

44
45 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

46 **MENTAL RETARDATION CENTER TRANSITION PLAN**

47 **SECTION 10.15.(a)** The Department of Health and Human Services shall
48 develop and implement a plan for the reorganization of outreach services performed by
49 the State mental retardation centers. The plan shall provide for the elimination of
50 self-referrals by the mental retardation centers and shall include the following:

- 51 (1) The area and county mental health programs shall have exclusive
52 authority for referring to the mental retardation centers persons in the
53 community who are in need of specialized services.
- 54 (2) The mental retardation centers shall coordinate the transition of
55 residents from the mental retardation centers to area and county mental

1 health programs, and shall provide technical assistance to community
2 service providers and families who care for transitioned residents, and
3 to others in the community, as appropriate, for the purpose of
4 furthering community services and placement.

- 5 (3) The method for allocating savings in State appropriations from the
6 mental retardation centers across the area and county mental health
7 programs.

8 **SECTION 10.15.(b)** In accordance with the plan established in subsection
9 (a) of this section, any recurring and nonrecurring savings in State appropriations that
10 result from the transfer of referral activities in the mental retardation centers to area and
11 county mental health programs shall be transferred from the Division of Mental Health,
12 Developmental Disabilities, and Substance Abuse Services to area and county mental
13 health programs for referral activities.

14 **SECTION 10.15.(c)** The Department of Health and Human Services shall
15 report on the implementation of this section to the Senate Appropriations Committee on
16 Health and Human Services, the House of Representatives Appropriations
17 Subcommittee on Health and Human Services, and the Fiscal Research Division. This
18 report shall be submitted on February 1, 2004.

19
20 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

21 **SERVICES TO MULTIPLY-DIAGNOSED ADULTS**

22 **SECTION 10.16.(a)** In order to ensure that multiply-diagnosed adults are
23 appropriately served by the mental health, developmental disabilities, and substance
24 abuse services system, the Department of Health and Human Services, Division of
25 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the
26 following with respect to services provided to these adults:

- 27 (1) Implement the following guiding principles for the provision of
28 services:
29 a. Service delivery system must be outcome oriented and
30 evaluation based.
31 b. Services should be delivered as close as possible to the
32 consumer's home.
33 c. Services selected should be those that are most efficient in
34 terms of cost and effectiveness.
35 d. Services should not be provided solely for the convenience of
36 the provider or the client.
37 e. Families and consumers should be involved in decision making
38 throughout treatment planning and delivery; and
39 (2) Provide those treatment services that are medically necessary.
40 (3) Implement utilization review of services provided.

41 **SECTION 10.16.(b)** The Department of Health and Human Services shall
42 implement all of the following cost-reduction strategies:

- 43 (1) Preauthorization for all services except emergency services.
44 (2) Criteria for determining medical necessity.
45 (3) Clinically appropriate services.
46 (4) Not later than May 1, 2004, conduct a State review of (i)
47 individualized service plans for former Thomas S. class members and
48 for adults whose service plan exceeds one hundred thousand dollars
49 (\$100,000) to ensure that service plans focus on delivery of
50 appropriate services rather than optimal treatment and habilitation
51 plans, and (ii) staffing patterns of residential services.

52 **SECTION 10.16.(c)** No State funds shall be used for the purchase of
53 single-family or other residential dwellings to house multiply-diagnosed adults.

54 **SECTION 10.16.(d)** The Department shall submit a progress report on
55 implementation of this section not later than February 1, 2004, and a final report not

1 later than May 1, 2004, to the Senate Appropriations Committee on Health and Human
2 Services, the House of Representatives Appropriations Subcommittee on Health and
3 Human Services, and the Fiscal Research Division.

4
5 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

6 **AREA MENTAL HEALTH ADMINISTRATIVE COSTS**

7 **SECTION 10.17.(a)** Area mental health, developmental disabilities, and
8 substance abuse authorities or counties administering mental health, developmental
9 disabilities, and substance abuse services shall develop and implement plans to reduce
10 local administrative costs. The plans shall be developed in accordance with guidelines
11 adopted by the Secretary, in consultation with the Local Government Commission and
12 the North Carolina Association of County Commissioners, and in accordance with the
13 following:

- 14 (1) Administrative costs for area mental health, developmental disabilities,
15 and substance abuse services programs shall not exceed thirteen
16 percent (13%).
- 17 (2) Administrative costs for counties administering mental health,
18 developmental disabilities, and substance abuse services through a
19 county program shall not exceed thirteen percent (13%).

20 **SECTION 10.17.(b)** The Department of Health and Human Services shall
21 report its progress in complying with this section not later than January 1, 2004, and
22 April 15, 2004. The reports shall be submitted to the Senate Appropriations Committee
23 on Health and Human Services, the House of Representatives Appropriations
24 Subcommittee on Health and Human Services, and the Fiscal Research Division and
25 shall include:

- 26 (1) A description of the process used and the participants involved in
27 complying with subsection (a) of this section.
- 28 (2) The guidelines developed under subsection (a) of this section.
- 29 (3) A description of local compliance initiatives and efforts including
30 program or function consolidation.
- 31 (4) A list of area programs at or below the targeted thirteen percent (13%)
32 for the 2003-2004 fiscal year.
- 33 (5) Projected savings in administrative costs as a result of implementation
34 of the targeted limits required under this section.

35 **SECTION 10.17.(c)** The Department may implement alternative approaches
36 to establish reasonable administrative cost limitations for Local Management Entities
37 (LMEs), including both county programs and area authority models, and service
38 providers in accordance with system reform and changes in system funding structures.

39
40 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

41 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

42 **SECTION 10.18.(a)** To ensure uniformity in rates charged to area programs
43 and funded with State-allocated resources, the Division of Mental Health,
44 Developmental Disabilities, and Substance Abuse Services of the Department of Health
45 and Human Services may require a private agency that provides services under contract
46 with an area program or county program, except for hospital services that have an
47 established Medicaid rate, to complete an agency-wide uniform cost finding in
48 accordance with G.S.122C-147.2. The resulting cost shall be the maximum included for
49 the private agency in the contracting area program's unit cost finding.

50 **SECTION 10.18.(b)** If a private agency fails to timely and accurately
51 complete the required agency-wide uniform cost finding in a manner acceptable to the
52 Department's controller's office, the Department may suspend all Department funding
53 and payment to the private agency until such time as an acceptable cost finding has been
54 completed by the private agency and approved by the Department's controller's office.
55

SUBPART 3. DIVISION OF MEDICAL ASSISTANCE

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

MEDICAID

SECTION 10.19.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.
- (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid Program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.
- (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.
- (5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services.

- 1 Payments for dental services are subject to the provisions of subsection
2 (g) of this section.
- 3 (7) Community Alternative Program, EPSDT Screens. – Payment to be
4 made in accordance with the rate schedule developed by the
5 Department of Health and Human Services.
- 6 (8) Home Health and Related Services, Private Duty Nursing, Clinic
7 Services, Prepaid Health Plans, Durable Medical Equipment. –
8 Payment to be made according to reimbursement plans developed by
9 the Department of Health and Human Services.
- 10 (9) Medicare Buy-In. – Social Security Administration premium.
- 11 (10) Ambulance Services. – Uniform fee schedules as developed by the
12 Department of Health and Human Services. Public ambulance
13 providers will be reimbursed at cost.
- 14 (11) Hearing Aids. – Actual cost plus a dispensing fee.
- 15 (12) Rural Health Clinic Services. – Provider-based, reasonable cost;
16 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 17 (13) Family Planning. – Negotiated rate for local health departments. For
18 other providers, see specific services, for instance, hospitals,
19 physicians.
- 20 (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules
21 as developed by the Department of Health and Human Services.
- 22 (15) Optical Supplies. – One hundred percent (100%) of reasonable
23 wholesale cost of materials.
- 24 (16) Ambulatory Surgical Centers. – Payment as prescribed in the
25 reimbursement plan established by the Department of Health and
26 Human Services.
- 27 (17) Medicare Crossover Claims. – An amount up to the actual coinsurance
28 or deductible or both, in accordance with the State Plan, as approved
29 by the Department of Health and Human Services.
- 30 (18) Physical Therapy and Speech Therapy. – Services limited to
31 EPSDT-eligible children. Payments are to be made only to qualified
32 providers at rates negotiated by the Department of Health and Human
33 Services. Physical therapy (including occupational therapy) and speech
34 therapy services are subject to prior approval and utilization review.
- 35 (19) Personal Care Services. – Payment in accordance with the State Plan
36 approved by the Department of Health and Human Services.
- 37 (20) Case Management Services. – Reimbursement in accordance with the
38 availability of funds to be transferred within the Department of Health
39 and Human Services.
- 40 (21) Hospice. – Services may be provided in accordance with the State Plan
41 developed by the Department of Health and Human Services.
- 42 (22) Other Mental Health Services. – Unless otherwise covered by this
43 section, coverage is limited to:
- 44 a. Services as defined by the Division of Mental Health,
45 Developmental Disabilities, and Substance Abuse Services and
46 approved by the Centers for Medicare and Medicaid Services
47 (CMS) when provided in agencies meeting the requirements of
48 the rules established by the Commission for Mental Health,
49 Developmental Disabilities, and Substance Abuse Services, and
50 reimbursement is made in accordance with a State Plan
51 developed by the Department of Health and Human Services
52 not to exceed the upper limits established in federal regulations,
53 and
- 54 b. For children eligible for EPSDT services:

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

16 Notwithstanding G.S. 150B-21.1(a), the Department of Health and
17 Human Services may adopt temporary rules in accordance with
18 Chapter 150B of the General Statutes further defining the
19 qualifications of providers and referral procedures in order to
20 implement this subdivision. Coverage policy for services defined by
21 the Division of Mental Health, Developmental Disabilities, and
22 Substance Abuse Services under sub-subdivisions a. and b.2. of this
23 subdivision shall be established by the Division of Medical Assistance.

- 24 (23) Medically Necessary Prosthetics or Orthotics for EPSDT-Eligible
25 Children. – Reimbursement in accordance with the State Plan
26 approved by the Department of Health and Human Services.
- 27 (24) Health Insurance Premiums. – Payments to be made in accordance
28 with the State Plan adopted by the Department of Health and Human
29 Services consistent with federal regulations.
- 30 (25) Medical Care/Other Remedial Care. – Services not covered elsewhere
31 in this section include related services in schools; health professional
32 services provided outside the clinic setting to meet maternal and infant
33 health goals; and services to meet federal EPSDT mandates. Services
34 addressed by this paragraph are limited to those prescribed in the State
35 Plan as established by the Department of Health and Human Services.
- 36 (26) Pregnancy-Related Services. – Covered services for pregnant women
37 shall include nutritional counseling, psychosocial counseling, and
38 predelivery and postpartum home visits by maternity care coordinators
39 and public health nurses.

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

42 Payment is limited to Medicaid-enrolled providers that purchase a
43 performance bond in an amount not to exceed one hundred thousand dollars (\$100,000)
44 naming as beneficiary the Department of Health and Human Services, Division of
45 Medical Assistance, or provide to the Department a validly executed letter of credit or
46 other financial instrument issued by a financial institution or agency honoring a demand
47 for payment in an equivalent amount. The Department may waive or limit the
48 requirements of this paragraph for one or more classes of Medicaid-enrolled providers
49 based on the provider's dollar amount of monthly billings to Medicaid or the length of
50 time the provider has been licensed in this State to provide services. In waiving or
51 limiting requirements of this paragraph, the Department shall take into consideration the
52 potential fiscal impact of the waiver or limitation on the State Medicaid Program. The
53 Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary
54 to implement this provision.

1 Reimbursement is available for up to 24 visits per recipient per year to any
 2 one or combination of the following: physicians, clinics, hospital outpatient,
 3 optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children,
 4 emergency rooms, and mental health services subject to independent utilization review
 5 are exempt from the visit limitations contained in this paragraph. Exceptions may be
 6 authorized by the Department of Health and Human Services where the life of the
 7 patient would be threatened without such additional care. Any person who is determined
 8 by the Department to be exempt from the 24-visit limitation may also be exempt from
 9 the six-prescription limitation.

10 **SECTION 10.19.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
 11 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 12 nonfederal costs of all applicable services listed in this section.

13 **SECTION 10.19.(c)** Copayment for Medicaid Services. – The Department
 14 of Health and Human Services may establish copayment up to the maximum permitted
 15 by federal law and regulation.

16 **SECTION 10.19.(d)** Medicaid and Work First Family Assistance, Income
 17 Eligibility Standards. – The maximum net family annual income eligibility standards for
 18 Medicaid and Work First Family Assistance and the Standard of Need for Work First
 19 Family Assistance shall be as follows:

20
 21 Categorically Needy

Medically Needy

22
 23 WFFA*

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

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 37 *Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB);
 38 and Aid to the Disabled (AD).

39
 40 The payment level for Work First Family Assistance shall be fifty percent (50%) of the
 41 standard of need.

42 These standards may be changed with the approval of the Director of the
 43 Budget with the advice of the Advisory Budget Commission.

44 **SECTION 10.19.(e)** The Department of Health and Human Services,
 45 Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind,
 46 and disabled people who have incomes equal to or less than one hundred percent
 47 (100%) of the federal poverty guidelines, as revised each April 1.

48 **SECTION 10.19.(f)** ICF and ICF/MR Work Incentive Allowances. – The
 49 Department of Health and Human Services may provide an incentive allowance to
 50 Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in
 51 work activities as part of their developmental plan and for whom retention of additional
 52 income contributes to their achievement of independence. The State funds required to
 53 match the federal funds that are required by these allowances shall be provided from
 54 savings within the Medicaid budget or from other unbudgeted funds available to the
 55 Department. The incentive allowances may be as follows:

Monthly Net WagesMonthly Incentive Allowance

\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

SECTION 10.19.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.19.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

SECTION 10.19.(i) The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

SECTION 10.19.(j) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 10.19.(k) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 10.19.(l) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs in accordance with Section 3 of S.L. 2001-395, including

1 contracting for services, preadmissions to hospitals, and prior approval for certain
2 outpatient surgeries before they may be performed in an inpatient setting.

3 **SECTION 10.19.(m)** For all Medicaid eligibility classifications for which
4 the federal poverty level is used as an income limit for eligibility determination, the
5 income limits will be updated each April 1 immediately following publication of federal
6 poverty guidelines.

7 **SECTION 10.19.(n)** The Department of Health and Human Services shall
8 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and
9 regulations.

10 **SECTION 10.19.(o)** The Department of Health and Human Services shall
11 provide coverage to pregnant women and to children according to the following
12 schedule:

- 13 (1) Pregnant women with incomes equal to or less than one hundred
14 eighty-five percent (185%) of the federal poverty guidelines as revised
15 each April 1 shall be covered for Medicaid benefits. In determining
16 income eligibility under this subdivision, the income of a minor's
17 parents shall be counted if the minor is residing in the home.
- 18 (2) Infants under the age of one with family incomes equal to or less than
19 one hundred eighty-five percent (185%) of the federal poverty
20 guidelines as revised each April 1 shall be covered for Medicaid
21 benefits.
- 22 (3) Children aged one through five with family incomes equal to or less
23 than one hundred thirty-three percent (133%) of the federal poverty
24 guidelines as revised each April 1 shall be covered for Medicaid
25 benefits.
- 26 (4) Children aged six through 18 with family incomes equal to or less than
27 the federal poverty guidelines as revised each April 1 shall be covered
28 for Medicaid benefits.
- 29 (5) The Department of Health and Human Services shall provide Medicaid
30 coverage for adoptive children with special or rehabilitative needs
31 regardless of the adoptive family's income.
- 32 (6) Infants under the age of one whose family income is above one
33 hundred eighty-five percent (185%) through two hundred percent
34 (200%) of the federal poverty level. Coverage under this subdivision
35 shall be paid for from federal funds received under Title XXI of the
36 Social Security Act, and State matching funds, to implement the
37 Health Insurance Program for Children under Part 8 of Article 2 of
38 Chapter 108A of the General Statutes.
- 39 (7) Children aged one through five whose family income is above one
40 hundred thirty-three percent (133%) through two hundred percent
41 (200%) of the federal poverty level. Coverage under this subdivision
42 shall be paid for from federal funds received under Title XXI of the
43 Social Security Act, and State matching funds, to implement the
44 Health Insurance Program for Children under Part 8 of Article 2 of
45 Chapter 108A of the General Statutes.

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

52 **SECTION 10.19.(p)** Medicaid enrollment of categorically needy families
53 with children shall be continuous for one year without regard to changes in income or
54 assets.

1 **SECTION 10.19.(q)** The Department of Health and Human Services shall
2 disregard earned income for recipients who would otherwise lose Medicaid eligibility
3 under section 1931 of Title XIX of the Social Security Act due to earnings. This
4 disregard shall be applied for a maximum of 12 consecutive months.

5 **SECTION 10.19.(r)** The Division of Medical Assistance, Department of
6 Health and Human Services, may provide incentives to counties that successfully
7 recover fraudulently spent Medicaid funds by sharing State savings with counties
8 responsible for the recovery of the fraudulently spent funds.

9 **SECTION 10.19.(s)** If first approved by the Office of State Budget and
10 Management, the Division of Medical Assistance, Department of Health and Human
11 Services, may use funds that are identified to support the cost of development and
12 acquisition of equipment and software through contractual means to improve and
13 enhance information systems that provide management information and claims
14 processing. The Department of Health and Human Services shall identify adequate
15 funds to support the implementation and first year's operational costs that exceed the
16 currently allocated funds for the new contract for the fiscal agent for the Medicaid
17 Management Information System.

18 **SECTION 10.19.(t)** The Department of Health and Human Services may
19 adopt temporary rules according to the procedures established in G.S. 150B-21.1 when
20 it finds that these rules are necessary to maximize receipt of federal funds within
21 existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and
22 abuse. Prior to the filing of these temporary rules with the Office of Administrative
23 Hearings, the Department shall consult with the Office of State Budget and
24 Management on the possible fiscal impact of the temporary rule and its effect on State
25 appropriations and local governments.

26 **SECTION 10.19.(u)** The Department shall report to the Fiscal Research
27 Division of the Legislative Services Office and to the House of Representatives
28 Appropriations Subcommittee on Health and Human Services and the Senate
29 Appropriations Committee on Health and Human Services or the Joint Legislative
30 Health Care Oversight Committee on any change it anticipates making in the Medicaid
31 program that impacts the type or level of service, reimbursement methods, or waivers,
32 any of which require a change in the State Plan or other approval by the Centers for
33 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time
34 they are submitted to CMS for approval.

35 **SECTION 10.19.(v)** Upon approval of a demonstration waiver by the
36 Centers for Medicare and Medicaid Services (CMS), the Department of Health and
37 Human Services may provide Medicaid coverage for family planning services to men
38 and women of child-bearing age with family incomes equal to or less than one hundred
39 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent
40 upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

41 **SECTION 10.19.(w)** The Department of Health and Human Services,
42 Division of Medical Assistance, shall use the latest audited cost reporting data available
43 when establishing Medicaid provider rates or when making changes to the
44 reimbursement methodology. For hospital services, the Division shall use the latest
45 audited cost reporting data available, supplemented by additional financial information
46 available to the Division if and to the extent that the Division concludes that the
47 information is reliable and relevant, when establishing rates or when making changes to
48 the reimbursement methodology.

49 **SECTION 10.19.(x)** The Department of Health and Human Services,
50 Division of Medical Assistance, shall implement a new coding system for therapeutic
51 mental health services as required by the Health Insurance Portability and
52 Accountability Act of 1996. In implementing the new coding system, the Division shall
53 ensure that the new coding system does not discriminate between providers of
54 therapeutic mental health services with similar qualifications and training. In meeting
55 the requirements of this subsection, the Division shall consult with the Division of

1 Mental Health, Developmental Disabilities, and Substance Abuse Services and the
2 professional licensing boards responsible for licensing the affected professionals.

3 **SECTION 10.19.(y)** The Department of Health and Human Services may
4 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
5 Social Security Act, including the attachment of liens, to real property excluded as
6 "income producing", tenancy-in-common, or nonhomesite property made "income
7 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
8 of assets policy shall apply only to an institutionalized individual or the individual's
9 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
10 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
11 policies and attachment of liens to properties excluded as tenancy-in-common or as
12 nonhomesite property made "income producing" in accordance with this subsection
13 shall become effective not earlier than November 1, 2002.

14 **SECTION 10.19.(z)** When implementing the Supplemental Security Income
15 (SSI) method for considering equity value of income producing property, the
16 Department shall, to the maximum extent possible, employ procedures to mitigate the
17 hardship to Medicaid enrollees occurring from application of the Supplemental Security
18 Income (SSI) method.

19 **SECTION 10.19.(aa)** The Department shall not change medical policy
20 affecting the amount, sufficiency, duration, and scope of health care services and who
21 may provide services until the Division of Medical Assistance has prepared a five-year
22 fiscal analysis documenting the increased cost of the proposed change in medical policy
23 and submitted it for Departmental review. If the fiscal impact indicated by the fiscal
24 analysis for any proposed medical policy change exceeds three million dollars
25 (\$3,000,000) in total requirements for a given fiscal year, then the Department shall
26 submit the proposed policy change with the fiscal analysis to the Office of State Budget
27 and Management and the Fiscal Research Division.

28 **SECTION 10.19.(bb)** The Department shall develop, amend, and adopt
29 medical coverage policy in accordance with the following:

- 30 (1) During the development of new medical coverage policy or
31 amendment to existing medical coverage policy, consult with and seek
32 the advice of the Physician Advisory Group of the North Carolina
33 Medical Society and other organizations the Secretary deems
34 appropriate.
- 35 (2) At least 45 days prior to the adoption of new or amended medical
36 coverage policy, the Department shall:
 - 37 a. Publish the proposed new or amended medical coverage policy
38 on the Department's web site;
 - 39 b. Notify all Medicaid providers of the proposed, new, or amended
40 policy; and
 - 41 c. Upon request, provide persons copies of the proposed medical
42 coverage policy.
- 43 (3) During the 45-day period immediately following publication of the
44 proposed new or amended medical coverage policy, accept oral and
45 written comments on the proposed new or amended policy.
- 46 (4) If, following the comment period, the proposed new or amended
47 medical coverage policy is modified, then the Department shall, at
48 least 15 days prior to its adoption:
 - 49 a. Notify all Medicaid providers of the proposed policy;
 - 50 b. Upon request, provide persons notice of amendments to the
51 proposed policy; and
 - 52 c. Accept additional oral or written comments during this 15-day
53 period.

54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

MEDICAID RESERVE FUND TRANSFER

SECTION 10.20. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of thirty-seven million five hundred thousand dollars (\$37,500,000) for the 2003-2004 fiscal year and the sum of thirty-seven million five hundred thousand dollars (\$37,500,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS

SECTION 10.21.(a) Disproportionate share receipts reserved at the end of the 2003-2004 and 2004-2005 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

SECTION 10.21.(b) For each year of the 2003-2005 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars (\$100,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

COUNTY MEDICAID COST SHARE

SECTION 10.22.(a) Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

SECTION 10.22.(b) Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

Requested by: Senators Purcell, Reeves, Pittenger, Garrou, Dalton, Hagan

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 10.23.(a) The Department of Health and Human Services may use not more than six million dollars (\$6,000,000) for the 2003-2004 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

1 **SECTION 10.23.(b)** As part of any efforts to contain Medicaid Program
2 costs, the Department of Health and Human Services, Division of Medical Assistance,
3 shall establish reimbursement rates that will allow efficient Medicaid providers to
4 comply with certification requirements, licensure rules, or other mandated quality or
5 safety standards.

6
7 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

8 **INCREASES IN FEDERAL MEDICAID FUNDS**

9 **SECTION 10.24.(a)** Notwithstanding any other provision of law to the
10 contrary, the total amount of State funds that become available to the Department of
11 Health and Human Services for the 2003-2004 fiscal year due to an increase in federal
12 Medicaid funds resulting from increases in the Federal Financial Participation rate shall
13 be used to increase funds appropriated to the Department for the 2003-2004 fiscal year
14 for the Medicaid program without any reduction in what is otherwise allocated to the
15 Department from appropriated funds.

16 **SECTION 10.24.(b)** The Department of Health and Human Services,
17 Division of Medical Assistance, may reinstate eligibility policies changed by this act
18 when all of the following conditions are met:

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

27
28 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

29 **TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID**

30 **SECTION 10.26.** G.S. 108A-58 reads as rewritten:

31 **"§ 108A-58. Transfer of property for purposes of qualifying for medical**
32 **assistance; periods of ineligibility.**

33 (a) Any person, otherwise eligible, who, either while receiving medical
34 assistance benefits or ~~within one year prior to the date of applying for medical~~
35 ~~assistance benefits, unless some other within the~~ time period is mandated by controlling
36 federal law, sells, gives, assigns or transfers countable real or personal property or an
37 interest in real or personal property for the purpose of retaining or establishing
38 eligibility for medical assistance benefits, shall be ineligible to receive medical
39 assistance benefits as set forth in ~~subsection (e) of this section.~~ section 1917(c) of the
40 Social Security Act. Countable real and personal property includes real property,
41 excluding a homesite, unless other applicable federal or State law requires the homesite
42 to be counted for transfer of property purposes, intangible personal property,
43 nonessential motor and recreational vehicles, nonincome producing business equipment,
44 boats and motors. The provisions of this act shall not apply to the sale, gift, assignment
45 or transfer of real or personal property if and to the extent that the person applying for
46 medical assistance would have been eligible for such assistance notwithstanding
47 ownership of such property or an interest therein.

48 (b) Any sale, gift, assignment or transfer of real or personal property or an
49 interest in real or personal property, as provided in subsection (a) of this section, shall
50 be presumed to have been made for the purpose of retaining or establishing eligibility
51 for medical assistance benefits unless the person, or the person's legal representative,
52 who sells, gives, assigns or transfers the property or interest, receives valuable
53 consideration at least equal to the fair market value, less encumbrances, of the property
54 or interest.

1 (c) Any person who sells, gives, assigns or transfers real or personal property or
2 an interest in real or personal property for the purpose of retaining or establishing
3 eligibility for medical assistance benefits, as provided in subsection (a) of this section,
4 shall, after the time of transfer, be ineligible to receive these benefits until an amount
5 equal to the uncompensated value of the property or interest has been expended by or on
6 behalf of the person for the person's maintenance and support, including medical
7 expenses, paid or incurred, or shall be ineligible based on the period of time required
8 under section 1917(c) of the Social Security Act. ~~in accordance with the following~~
9 ~~schedule, whichever is sooner;~~

- 10 (1) ~~For uncompensated value of at least one thousand dollars (\$1,000) but~~
11 ~~not more than six thousand dollars (\$6,000), a one year period of~~
12 ~~ineligibility from date of sale, gift, assignment or transfer;~~
13 (2) ~~For uncompensated value of more than six thousand dollars (\$6,000)~~
14 ~~but not more than twelve thousand dollars (\$12,000), a two year~~
15 ~~period of ineligibility from date of sale, gift, assignment or transfer;~~
16 (3) ~~For uncompensated value of more than twelve thousand dollars~~
17 ~~(\$12,000), a two year period of ineligibility from date of sale, gift,~~
18 ~~assignment or transfer, plus one additional month of ineligibility for~~
19 ~~each five hundred dollar (\$500.00) increment or portion thereof by~~
20 ~~which the uncompensated value exceeds twelve thousand dollars~~
21 ~~(\$12,000), but in no event to exceed three years.~~

22 (d) The sale, gift, assignment or transfer for a consideration less than fair market
23 value, less encumbrances, of any tangible personal property which was acquired with
24 the proceeds of sale, assignment or transfer of real or intangible personal property
25 described in subsection (a) of this section or in exchange for such real or intangible
26 personal property shall be presumed to have been for the purpose of evading the
27 provisions of this section if the acquisition and sale, gift, assignment or transfer of the
28 tangible personal property is by or on behalf of a person receiving medical assistance or
29 within the time period mandated by controlling federal law ~~one year of making~~
30 ~~application for such assistance~~ and the consequences of the sale, gift, assignment or
31 transfer of such tangible personal property shall be determined under the provisions of
32 subsections ~~(e), (f) and (g)~~ (c) and (f) of this section.

33 (e) The presumptions created by subsections (b) and (d) may be overcome if the
34 person receiving or applying for medical assistance, or the person's legal representative,
35 establishes by the greater weight of the evidence that the sale, gift, assignment or
36 transfer was exclusively for some purpose other than retaining or establishing eligibility
37 for medical assistance benefits.

38 (f) For the purpose of establishing uncompensated value under subsection (c),
39 the value of property or an interest therein shall be the fair market value of the property
40 or interest at the time of the sale, gift, assignment or transfer, less the amount of
41 compensation, if any, received for the property or interest. There shall be a rebuttable
42 presumption that the fair market value of real property is the most recent property tax
43 value of the property, as ascertained according to Subchapter II of Chapter 105 of the
44 General Statutes. Fair market value for purpose of this subsection shall be such value,
45 determined as above set out, less any legally enforceable encumbrances to which the
46 property is subject.

47 ~~(g) In the event that there is more than one sale, gift, assignment or transfer of~~
48 ~~property or an interest therein by a person receiving medical assistance or within one~~
49 ~~year of the date of an application for medical assistance, unless some other time period~~
50 ~~is mandated by controlling federal law, the uncompensated value, for the purposes of~~
51 ~~subsection (c), shall be the aggregate uncompensated value of all sales, gifts,~~
52 ~~assignments and transfers. The date which is the midpoint between the date of the first~~
53 ~~and last sale, gift, assignment or transfer shall be the date from which the period of~~
54 ~~ineligibility shall be determined under subsection (c).~~

1 (h) This section shall not apply to applicants for or recipients of Work First
 2 Family Assistance or to persons entitled to medical assistance by virtue of their
 3 eligibility for Work First Family Assistance.

4 (i) ~~This section shall apply only to transfers made before July 1, 1988.~~
 5

6 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

7 **MEDICARE ENROLLMENT REQUIRED**

8 **SECTION 10.27.** Part 6 of Article 2 of Chapter 108A of the General
 9 Statutes is amended by adding the following new section to read:

10 "**§ 108A-55.1. Medicare enrollment required.**

11 The Department shall require State Medical Assistance Program recipients who
 12 qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social
 13 Security Act, in order to pay medical expenditures that qualify for payment under
 14 Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these
 15 expenditures under the State Medical Assistance Program. A provider may seek
 16 payment for services from Medicaid enrollees who are eligible for but not enrolled in
 17 Medicare Part B."

18
 19 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

20 **MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING**
 21 **FACILITIES**

22 **SECTION 10.28.(a)** The Secretary of Health and Human Services shall
 23 implement a Medicaid assessment program for skilled nursing facilities licensed under
 24 Chapter 131E of the General Statutes. The assessment shall be imposed in a manner
 25 consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The
 26 Department shall impose the assessment effective October 1, 2003. Funds realized from
 27 assessments imposed shall be used only to draw down federal Medicaid matching funds
 28 for implementing the new reimbursement plan for nursing homes and for increasing
 29 nursing facility rates in accordance with the plan.

30 **SECTION 10.28.(b)** Funds realized from the Medicaid assessment program
 31 established pursuant to subsection (a) of this section shall not be used to supplant State
 32 funds appropriated for nursing facility services.

33 **SECTION 10.28.(c)** Funds realized from the assessment shall be used to pay
 34 one hundred percent (100%) of the nonfederal share for the new reimbursement plan for
 35 nursing homes.
 36

37 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

38 **HEALTH CHOICE**

39 **SECTION 10.29.(a)** G.S. 108A-70.19 reads as rewritten:

40 "**§ 108A-70.19. Short title; purpose; no entitlement.**

41 This Part may be cited as "The Health Insurance Program for Children Act of 1998."
 42 The purpose of this Part is to provide comprehensive health insurance coverage to
 43 uninsured low-income children who are residents of this State. Coverage shall be
 44 provided from federal funds received, State funds appropriated, and other
 45 nonappropriated funds made available for this purpose. Funds received, appropriated, or
 46 otherwise made available for the Program shall be used to cover:

47 (1) Children eligible under G.S. 108A-70.21;

48 (2) Infants under the age of one year whose family income is from one
 49 hundred eighty-five percent (185%) through two hundred percent
 50 (200%) of the federal poverty level who receive services under the
 51 State Medical Assistance Program; and

52 (3) Children age one year through five years whose family income is
 53 above one hundred thirty-three percent (133%) through two hundred
 54 percent (200%) of the federal poverty level who receive service under
 55 the State Medical Assistance Program.

1 ~~Nothing~~ Except for infants and children described in subdivisions (2) and (3) of this
2 ~~section who receive services under the State Medical Assistance Program, nothing in~~
3 this Part shall be construed as obligating the General Assembly to appropriate funds for
4 the Program or as entitling any person to coverage under the Program."

5 **SECTION 10.29.(b)** G.S. 108A-70.21(a) reads as rewritten:

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

9 (1) Children must:

- 10 a. Be under the age of 19;
- 11 b. Be ineligible for Medicaid, Medicare, or other federal
12 government-sponsored health insurance;
- 13 c. Be uninsured;
- 14 d. ~~Be in a family that meets the following family income~~
15 ~~requirements:~~
 - 16 1. ~~Infants under the age of one year whose family income is~~
17 ~~from one hundred eighty five percent (185%) through~~
18 ~~two hundred percent (200%) of the federal poverty level;~~
 - 19 2. ~~Children age one year through five years whose family~~
20 ~~income is above one hundred thirty three percent (133%)~~
21 ~~through two hundred percent (200%) of the federal~~
22 ~~poverty level; and~~
 - 23 3. ~~Children~~
24 ~~Be~~ age six years through eighteen years whose family income is
25 above one hundred percent (100%) through two hundred
26 percent (200%) of the federal poverty level;
- 27 e. Be a resident of this State and eligible under federal law; and
- 28 f. Have paid the Program enrollment fee required under this Part.

29 (2) Proof of family income and residency and declaration of uninsured
30 status shall be provided by the applicant at the time of application for
31 Program coverage. The family member who is legally responsible for
32 the children enrolled in the Program has a duty to report any change in
33 the enrollee's status within 60 days of the change of status.

34 (3) If a responsible parent is under a court order to provide or maintain
35 health insurance for a child and has failed to comply with the court
36 order, then the child is deemed uninsured for purposes of determining
37 eligibility for Program benefits if at the time of application the
38 custodial parent shows proof of agreement to notify and cooperate
39 with the child support enforcement agency in enforcing the order.

40 If health insurance other than under the Program is provided to the
41 child after enrollment and prior to the expiration of the eligibility
42 period for which the child is enrolled in the Program, then the child is
43 deemed to be insured and ineligible for continued coverage under the
44 Program. The custodial parent has a duty to notify the Department
45 within 10 days of receipt of the other health insurance, and the
46 Department, upon receipt of notice, shall disenroll the child from the
47 Program. As used in this paragraph, the term "responsible parent"
48 means a person who is under a court order to pay child support.

49 (4) Except as otherwise provided in this section, enrollment shall be
50 continuous for one year. At the end of each year, applicants may
51 reapply for Program benefits."

52 **SECTION 10.29.(c)** G.S. 108A-70.21(b) reads as rewritten:

53 "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,
54 copayments, and other cost-sharing charges, health benefits coverage provided to
55 children eligible under the Program shall be equivalent to coverage provided for

1 dependents under the North Carolina Teachers' and State Employees' Comprehensive
2 Major Medical Plan, including optional prepaid plans. ~~Prescription drug providers shall~~
3 ~~accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the~~
4 ~~average wholesale price for the prescription drug or the amounts published by the~~
5 ~~Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and~~
6 ~~sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per~~
7 ~~prescription for brand name drugs. All other health care providers providing services to~~
8 Program enrollees shall accept as payment in full for services rendered the maximum
9 allowable charges under the North Carolina Teachers' and State Employees'
10 Comprehensive Major Medical Plan for services less any copayments assessed to
11 enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program
12 shall be required by the Plan to change health care providers as a result of being
13 enrolled in the Program.

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

- 17 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a
18 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once
19 during a 12-month period, fluoride applications twice during a
20 12-month period, sealants, simple extractions, therapeutic
21 pulpotomies, prefabricated stainless steel crowns, and routine fillings
22 of amalgam or other tooth-colored filling material to restore diseased
23 teeth. No benefits are to be provided for services under this subsection
24 that are not performed by or upon the direction of a dentist, doctor, or
25 other professional provider approved by the Plan nor for services and
26 materials that do not meet the standards accepted by the American
27 Dental Association.
- 28 (2) Vision: Scheduled routine eye examinations once every 12 months,
29 eyeglass lenses or contact lenses once every 12 months, routine
30 replacement of eyeglass frames once every 24 months, and optical
31 supplies and solutions when needed. Optical services, supplies, and
32 solutions must be obtained from licensed or certified ophthalmologists,
33 optometrists, or optical dispensing laboratories. Eyeglass lenses are
34 limited to single vision, bifocal, trifocal, or other complex lenses
35 necessary for a Plan enrollee's visual welfare. Coverage for oversized
36 lenses and frames, designer frames, photosensitive lenses, tinted
37 contact lenses, blended lenses, progressive multifocal lenses, coated
38 lenses, and laminated lenses is limited to the coverage for single
39 vision, bifocal, trifocal, or other complex lenses provided by this
40 subsection. Eyeglass frames are limited to those made of zylonite,
41 metal, or a combination of zylonite and metal. All visual aids covered
42 by this subsection require prior approval of the Plan. Upon prior
43 approval by the Plan, refractions may be covered more often than once
44 every 12 months.
- 45 (3) Hearing: Auditory diagnostic testing services and hearing aids and
46 accessories when provided by a licensed or certified audiologist,
47 otolaryngologist, or other hearing aid specialist approved by the Plan.
48 Prior approval of the Plan is required for hearing aids, accessories,
49 earmolds, repairs, loaners, and rental aids.

50 The Department may provide services to children enrolled in the Program through
51 the State Medical Assistance managed care program. Services provided through the
52 managed care program shall be paid for from Program funds."
53

54 **SECTION 10.29.(d)** G.S. 108A-70.21(d) reads as rewritten:

1 "(d) Cost-Sharing. – There shall be no deductibles, copayments, or other
 2 cost-sharing charges for families covered under the Program whose family income is at
 3 or below one hundred fifty percent (150%) of the federal poverty level, ~~level, except~~
 4 that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00)
 5 for each outpatient generic prescription drug and for each outpatient brand-name
 6 prescription drug for which there is no generic substitution available. The fee for each
 7 outpatient brand-name prescription drug for which there is a generic substitution
 8 available is three dollars (\$3.00). Families covered under the Program whose family
 9 income is above one hundred fifty percent (150%) of the federal poverty level shall be
 10 responsible for copayments to providers as follows:

- 11 (1) Five dollars (\$5.00) per child for each visit to a provider, except that
 12 there shall be no copayment required for well-baby, well-child, or
 13 age-appropriate immunization services;
- 14 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 15 (3) ~~A six dollar (\$6.00) fee for each outpatient prescription drug~~
 16 ~~purchased; one-dollar (\$1.00) fee for each outpatient generic~~
 17 ~~prescription drug and for each outpatient brand-name prescription drug~~
 18 ~~for which there is no generic substitution available. The fee for each~~
 19 ~~outpatient brand-name prescription drug for which there is a generic~~
 20 ~~substitution available is ten dollars (\$10.00).~~
- 21 (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 22 a. The child is admitted to the hospital, or
 23 b. No other reasonable care was available as determined by the
 24 Claims Processing Contractor of the North Carolina Teachers'
 25 and State Employees' Comprehensive Major Medical Plan.

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

28 **SECTION 10.29.(e)** G.S. 108A-70.24 reads as rewritten:

29 "**§ 108A-70.24. Claims processing; payments.**

30 (a) The North Carolina Teachers' and State Employees' Comprehensive Major
 31 Medical Plan shall be responsible for the administration and processing of claims for
 32 benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the
 33 General Statutes.

34 (b) ~~The After reserving sufficient funds made available for this Program to cover~~
 35 ~~the cost of State Medical Assistance Program services to infants under the age of one~~
 36 ~~year whose family income is from one hundred eighty-five percent (185%) through two~~
 37 ~~hundred percent (200%) of the federal poverty level, and children age one year through~~
 38 ~~five years whose family income is above one hundred thirty-three percent (133%)~~
 39 ~~through two hundred percent (200%) of the federal poverty level, the Department shall,~~
 40 from State and federal appropriations, and from any other funds made available for this
 41 purpose, make premium payments to the North Carolina Teachers' and State Employees'
 42 Comprehensive Major Medical Plan as determined by the Plan for its administration,
 43 claims processing, and other services authorized to provide coverage for acute medical
 44 care to children eligible for benefits under this Part.

45 (c) The North Carolina Teachers' and State Employees' Comprehensive Major
 46 Medical Plan shall also be responsible for the administration and processing of claims
 47 for benefits provided under G.S. 108A-70.23 and not covered by Part 5 of Article 3 of
 48 Chapter 135 of the General Statutes. Such claims payments shall be made against
 49 accounts maintained by the Department."

50 **SECTION 10.29.(f)** G.S. 108A-70.23(c) reads as rewritten:

51 "(c) Services Provided. – The services authorized to be provided to children
 52 eligible under this section are as follows:

- 53 (1) The same level of services as provided for special needs children under
 54 the Medical Assistance Program as authorized in the Current
 55 Operations Appropriations Act except ~~that that~~ that;

- 1 a. ~~no~~ ~~No~~ services for long-term care shall be provided under this
2 section, ~~and section~~;
3 b. ~~except that services~~ Services for respite care shall be provided
4 only under emergency circumstances; and
5 c. The Department may limit services for special needs children
6 after consultation with the Commission on Children with
7 Special Health Care Needs.
- 8 (2) Only those services eligible under this section that are not covered or
9 otherwise provided under Part 5 of Article 3 of Chapter 135 of the
10 General Statutes."

11
12 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

13 **COLLABORATION AMONG DHHS, DPI, AND LEAS TO ENSURE**
14 **MEDICAID-RELATED SERVICES FOR ELIGIBLE PUBLIC SCHOOL**
15 **STUDENTS WITH DISABILITIES**

16 **SECTION 10.29A.** Part 6 of Article 2 of Chapter 108A of the General
17 Statutes is amended by adding the following new section to read:

18 **"§ 108A-55.1. Collaboration among agencies to ensure Medicaid-related services**
19 **payments to eligible students with disabilities in public schools.**

20 The Department shall work with the Department of Public Instruction and local
21 education agencies to develop efficient, effective, and appropriate administrative
22 procedures and guidelines to provide maximum funding for Medicaid-related services
23 for Medicaid-eligible students with disabilities. The procedures and guidelines shall be
24 streamlined to ensure that local education agencies receive Medicaid reimbursement in
25 a timely manner for Medicaid-related services and administrative outreach to
26 Medicaid-eligible students with disabilities."

27
28 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

29 **AUDIT OF CAP/DA PROGRAMS BY STATE AUDITOR**

30 **SECTION 10.29B.(a)** The State Auditor shall perform an audit of the
31 Community Alternatives Program for Disabled Adults (CAP/DA). The audit shall build
32 upon the results of the study conducted in accordance with S.L. 2002-126, Section
33 10.16(c), by the North Carolina Institute of Medicine and shall provide information
34 necessary to determine whether CAP/DA is operating within waiver guidelines and
35 program goals. The State Auditor shall report the results of the audit to the North
36 Carolina Study Commission on Aging by January 1, 2004.

37 **SECTION 10.29B.(b)** The Department of Health and Human Services shall
38 continue to examine CAP/DA and shall make a report of its findings to the North
39 Carolina Study Commission on Aging by January 1, 2004. The report shall include the
40 following information:

- 41 (1) A review of the current assessment process for CAP/DA clients,
42 including an explanation of how assessments are conducted and a
43 comparison of the assessment process for CAP/DA clients with the
44 assessment process for nursing home and adult care home clients.
- 45 (2) A description of total program costs to the State and counties for
46 clients receiving CAP/DA payments and an analysis of per-client costs
47 in CAP/DA to per-client costs in nursing homes and adult care homes.
48 This analysis shall include the costs of all forms of assistance received
49 by CAP/DA clients, such as food stamps and housing assistance.
- 50 (3) A description of total program costs and an analysis of per-participant
51 costs for individuals in the State-County In-Home Program. The
52 analysis shall include a comparison of per-client costs for participants
53 in the In-Home Program to pe-client costs in adult care homes.
- 54 (4) A description of the monitoring of quality of care for CAP/DA clients.
- 55 (5) An evaluation of the current waiting list procedures.

1
2 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

3 **BLUE RIBBON COMMISSION ON MEDICAID REFORM**

4 **SECTION 10.29C.(a)** There is established the North Carolina Blue Ribbon
5 Commission on Medicaid Reform (Commission). The Commission shall examine the
6 State's Medicaid program and make comprehensive recommendations for fundamental
7 reform. The Commission shall consider:

- 8 (1) Methods to responsibly restrain the growth in Medicaid spending.
- 9 (2) Best practices in both the public and private sectors in managing and
10 administering health care.
- 11 (3) Options for maximizing existing resources while controlling Medicaid
12 program costs.
- 13 (4) Current array of services available within the State Medicaid program
14 to determine the appropriateness of the type, frequency, and duration
15 of those services.
- 16 (5) Opportunities for long-term, systemic change in the Medicaid program
17 through the use of federal waivers and other management tools.
- 18 (6) The impact on the Medicaid program of expanding eligibility and
19 services in order to maximize federal funds to replace State and county
20 funds for Medicaid programs.
- 21 (7) The role of Medicaid in the State's economy, including:
 - 22 a. The role played by Medicaid in ensuring an adequate and
23 effective health care delivery system;
 - 24 b. The role of an adequate and effective health care delivery
25 system in economic development;
 - 26 c. Jobs created by Medicaid programs; and
 - 27 d. The adverse effects of inadequate Medicaid payments and
28 reduced Medicaid eligibility on private sector health benefit
29 plans.
- 30 (8) Any other matter relating to reform of the State Medicaid program.

31 **SECTION 10.29C.(b)** The Commission shall consist of 12 members
32 appointed as follows:

- 33 (1) Six members appointed by the Speaker of the House of
34 Representatives, including one member who shall be designated as
35 House Cochair. No more than three may be legislators.
- 36 (2) Six members appointed by the President Pro Tempore of the Senate,
37 including one member who shall be designated as Senate Cochair. No
38 more than three may be legislators.

39 The appointing officer shall fill vacancies. The Commission shall meet at the
40 call of the Cochairs. Members of the Commission shall receive per diem, subsistence,
41 and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The
42 Commission may contract for consultant services as provided in G.S. 120-32.02. Upon
43 approval of the Legislative Services Commission, the Legislative Services Officer shall
44 assign professional staff to assist the Commission in its work. Clerical staff shall be
45 furnished to the Commission through the offices of the House of Representatives and
46 Senate Directors of Legislative Assistants. The Commission may meet in the Legislative
47 Building or the Legislative Office Building. The Commission may exercise all of the
48 powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its
49 official duties. The Department of Health and Human Services shall transfer funding
50 from the Medicaid program to cover the cost of the Commission's study.

51 **SECTION 10.29C.(c)** By April 1, 2004, the Commission shall make an
52 interim report to the 2003 General Assembly. The Commission shall make its final
53 report to the 2005 General Assembly by February 1, 2005, and shall expire upon
54 submitting that report.
55

SUBPART 4. DIVISION OF PUBLIC HEALTH

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

IMMUNIZATION PROGRAM FUNDING

SECTION 10.30.(a) Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars (\$1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

(1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units.

(2) Continued development of an automated immunization registry.

SECTION 10.30.(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services or contracts, except for contracts to develop an automated immunization registry or with local health departments for outreach.

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.31.(a) For the 2003-2004 fiscal year and for the 2004-2005 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level.

SECTION 10.31.(b) The Department of Health and Human Services shall make an interim report on ADAP program utilization by January 1, 2004, and a final report on ADAP program utilization by May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

(1) ADAP program utilization:

- a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.
- b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.
- c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.
- d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.
- e. An update on the status of the information management system.
- f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.
- g. Fiscal year-to-date budget information.

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

NEWBORN HEARING SCREENING PROGRAM REPORT

1 **SECTION 10.32.** The Department of Health and Human Services shall
2 report the following information on the newborn hearing screening program:

- 3 (1) Unduplicated number of infants screened.
- 4 (2) Number of infants who failed the second hearing screening.
- 5 (3) Number of infants receiving the diagnostic evaluation.
- 6 (4) Number and types of services provided.
- 7 (5) Number and types of follow-up services provided to children.

8 The Department shall submit the report not later than May 1, 2004, to the Senate
9 Appropriations Committee on Health and Human Services, the House of
10 Representatives Appropriations Subcommittee on Health and Human Services, and the
11 Fiscal Research Division.

12
13 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

14 **EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER**
15 **WORKERS COMPENSATION STATUTE.**

16 **SECTION 10.33.(a)** G.S. 97-61.1 reads as rewritten:

17 **§ 97-61.1. First examination of and report on employee having asbestosis or**
18 **silicosis.**

19 When an employee and the Industrial Commission are advised ~~by the Department of~~
20 ~~Health and Human Services~~ that an employee has asbestosis or silicosis, the employer
21 shall be notified by the Industrial Commission, and the employee, when ordered by the
22 Industrial Commission, shall go to a place designated by the Industrial Commission and
23 submit to X rays and a physical examination by the advisory medical committee, at least
24 one of whom shall conduct the examination, and the member or members of the
25 advisory medical committee conducting the examination shall forward the X rays and
26 findings to the member or members of the committee not present for the physical
27 examination. The employer shall pay the expenses connected with the examination in
28 such amounts as shall be directed by the Industrial Commission. Within 30 days after
29 the completion of the examination, the advisory medical committee shall make a written
30 report signed by all of its members setting forth:

- 31 (1) The X rays and clinical procedures used by the committee in arriving
32 at its findings.
- 33 (2) Whether or not the claimant has contracted asbestosis or silicosis.
- 34 (3) The committee's opinion expressed in percentages of the impairment
35 of the employee's ability to perform normal labor in the same or any
36 other employment.
- 37 (4) Any other matter deemed pertinent by the committee.

38 When a competent physician certifies to the Industrial Commission that the
39 employee's physical condition is such that his movement to the place of examination
40 ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and
41 97-61.4 would be harmful or injurious to the health of the employee, the Industrial
42 Commission shall cause the examination of the employee to be made by the advisory
43 medical committee as herein provided at some place in the vicinity of the residence of
44 the employee suitable for the purposes of making such examination."

45 **SECTION 10.33.(b)** G.S. 97-72(b) reads as rewritten:

46 "(b) The members of the advisory medical committee shall be paid one hundred
47 dollars (\$100.00) per month plus not more than forty dollars (\$40.00) per film
48 examined. The fee per film shall be established by the ~~Secretary of Health and Human~~
49 ~~Services, Commissioner of Labor,~~ as guided by the current Medicaid/Medicare
50 reimbursement schedules for North Carolina."

51 **SECTION 10.33.(c)** G.S. 97-73(b) reads as rewritten:

52 "(b) The ~~Secretary of Health and Human Services~~ Commissioner of Labor shall
53 establish a schedule of fees for examinations conducted by the Department of Health
54 and Human Services pursuant to G.S. 97-60. The fees shall be collected in accordance

1 with rules adopted by the ~~Secretary of Health and Human Services~~ Commissioner of
2 Labor."

3
4 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

5 **RENAME NORTH CAROLINA HEART DISEASE AND STROKE**
6 **PREVENTION TASK FORCE**

7 **SECTION 10.33B.** G.S. 143B-216.60 reads as rewritten:

8 "**§ 143B-216.60. ~~North Carolina~~ The Ed Warren Heart Disease and Stroke**
9 **Prevention Task Force.**

10 (a) The ~~North Carolina~~ Ed Warren Heart Disease and Stroke Prevention Task
11 Force is created in the Department of Health and Human Services.

12 (b) The Task Force shall have 27 members. The Governor shall appoint the
13 Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the
14 Department of Health and Human Services, the Director of the Division of Medical
15 Assistance in the Department of Health and Human Services, and the Director of the
16 Division of Aging in the Department of Health and Human Services, or their designees,
17 shall be members of the Task Force. Appointments to the Task Force shall be made as
18 follows:

19 (1) By the General Assembly upon the recommendation of the President
20 Pro Tempore of the Senate, as follows:

- 21 a. Three members of the Senate;
- 22 b. A heart attack survivor;
- 23 c. A local health director;
- 24 d. A certified health educator;
- 25 e. A hospital administrator; and
- 26 f. A representative of the North Carolina Association of Area
27 Agencies on Aging.

28 (2) By the General Assembly upon the recommendation of the Speaker of
29 the House of Representatives, as follows:

- 30 a. Three members of the House of Representatives;
- 31 b. A stroke survivor;
- 32 c. A county commissioner;
- 33 d. A licensed dietitian/nutritionist;
- 34 e. A pharmacist; and
- 35 f. A registered nurse.

36 (3) By the Governor, as follows:

- 37 a. A practicing family physician, pediatrician, or internist;
- 38 b. A president or chief executive officer of a business upon
39 recommendation of a North Carolina wellness council which is
40 a member of the Wellness Councils of America;
- 41 c. A news director of a newspaper or television or radio station;
- 42 d. A volunteer of the North Carolina Affiliate of the American
43 Heart Association;
- 44 e. A representative from the North Carolina Cooperative
45 Extension Service;
- 46 f. A representative of the Governor's Council on Physical Fitness
47 and Health; and
- 48 g. Two members at large.

49 (c) Each appointing authority shall assure insofar as possible that its appointees
50 to the Task Force reflect the composition of the North Carolina population with regard
51 to ethnic, racial, age, gender, and religious composition.

52 (d) The General Assembly and the Governor shall make their appointments to the
53 Task Force not later than 30 days after the adjournment of the 1995 General Assembly,
54 Regular Session 1995. A vacancy on the Task Force shall be filled by the original

1 appointing authority, using the criteria set out in this section for the original
2 appointment.

3 (e) The Task Force shall meet at least quarterly or more frequently at the call of
4 the Chair.

5 (f) The Task Force Chair may establish committees for the purpose of making
6 special studies pursuant to its duties, and may appoint non-Task Force members to serve
7 on each committee as resource persons. Resource persons shall be voting members of
8 the committees and shall receive subsistence and travel expenses in accordance with
9 G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to
10 accomplish the purposes of this section.

11 (g) Members of the Task Force shall receive per diem and necessary travel and
12 subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

13 (h) A majority of the Task Force shall constitute a quorum for the transaction of
14 its business.

15 (i) The Task Force may use funds allocated to it to establish two positions and
16 for other expenditures needed to assist the Task Force in carrying out its duties.

17 (j) ~~The Heart Disease and Stroke Prevention~~ Task Force has the following
18 duties:

- 19 (1) To undertake a statistical and qualitative examination of the incidence
20 of and causes of heart disease and stroke deaths and risks, including
21 identification of subpopulations at highest risk for developing heart
22 disease and stroke, and establish a profile of the heart disease and
23 stroke burden in North Carolina.
- 24 (2) To publicize the profile of the heart disease and stroke burden and its
25 preventability in North Carolina.
- 26 (3) To identify priority strategies which are effective in preventing and
27 controlling risks for heart disease and stroke.
- 28 (4) To identify, examine limitations of, and recommend to the Governor
29 and the General Assembly changes to existing laws, regulations,
30 programs, services, and policies to enhance heart disease and stroke
31 prevention by and for the people of North Carolina.
- 32 (5) To determine and recommend to the Governor and the General
33 Assembly the funding and strategies needed to enact new or to modify
34 existing laws, regulations, programs, services, and policies to enhance
35 heart disease and stroke prevention by and for the people of North
36 Carolina.
- 37 (6) To adopt and promote a statewide comprehensive Heart Disease and
38 Stroke Prevention Plan to the general public, State and local elected
39 officials, various public and private organizations and associations,
40 businesses and industries, agencies, potential funders, and other
41 community resources.
- 42 (7) To identify and facilitate specific commitments to help implement the
43 Plan from the entities listed in subdivision (6) above.
- 44 (8) To facilitate coordination of and communication among State and local
45 agencies and organizations regarding current or future involvement in
46 achieving the aims of the Heart Disease and Stroke Prevention Plan.
- 47 (9) To receive and consider reports and testimony from individuals, local
48 health departments, community-based organizations, voluntary health
49 organizations, and other public and private organizations statewide, to
50 learn more about their contributions to heart disease and stroke
51 prevention, and their ideas for improving heart disease and stroke
52 prevention in North Carolina.

53 (k) Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit
54 a final report to the Governor and the General Assembly by June 30, 2003, and a report
55 to each subsequent regular legislative session within one week of its convening."

1
2 **SUBPART 5. DIVISION OF CHILD DEVELOPMENT**
3

4 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

5 **CHILD CARE FUNDS MATCHING REQUIREMENT**

6 **SECTION 10.34.** No local matching funds may be required by the
7 Department of Health and Human Services as a condition of any locality's receiving any
8 State child care funds appropriated by this act unless federal law requires a match. This
9 shall not prohibit any locality from spending local funds for child care services.

10
11 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

12 **CHILD CARE SUBSIDY RATES**

13 **SECTION 10.35.(a)** The maximum gross annual income for initial
14 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five
15 percent (75%) of the State median income, adjusted for family size.

16 **SECTION 10.35.(b)** Fees for families who are required to share in the cost
17 of care shall be established based on a percent of gross family income and adjusted for
18 family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

19
20
21
22
23 **SECTION 10.35.(c)** Payments for the purchase of child care services for
24 low-income children shall be in accordance with the following requirements:

- 25 (1) Religious-sponsored child care facilities operating pursuant to G.S.
26 110-106 and licensed child care centers and homes that meet the
27 minimum licensing standards that are participating in the subsidized
28 child care program shall be paid the one-star county market rate or the
29 rate they charge privately paying parents, whichever is lower.
30 (2) Licensed child care centers and homes with two or more stars shall
31 receive the market rate for that rated license level for that age group or
32 the rate they charge privately paying parents, whichever is lower.
33 (3) Nonlicensed homes shall receive fifty percent (50%) of the county
34 market rate or the rate they charge privately paying parents, whichever
35 is lower.
36 (4) Maximum payment rates shall also be calculated periodically by the
37 Division of Child Development for transportation to and from child
38 care provided by the child care provider, individual transporter, or
39 transportation agency, and for fees charged by providers to parents.
40 These payment rates shall be based upon information collected by
41 market rate surveys.

42 **SECTION 10.35.(d)** Provision of payment rates for child care providers in
43 counties that do not have at least 50 children in each age group for center-based and
44 home-based care are as follows:

- 45 (1) Except as applicable in subdivision (2) of this subsection, payment
46 rates shall be set at the statewide or regional market rate for licensed
47 child care centers and homes.
48 (2) If it can be demonstrated that the application of the statewide or
49 regional market rate to a county with fewer than 50 children in each
50 age group is lower than the county market rate and would inhibit the
51 ability of the county to purchase child care for low-income children,
52 then the county market rate may be applied.

53 **SECTION 10.35.(e)** A market rate shall be calculated for child care centers
54 and homes at each rated license level for each county and for each age group or age
55 category of enrollees and shall be representative of fees charged to unsubsidized

1 privately paying parents for each age group of enrollees within the county. The Division
2 of Child Development shall also calculate a statewide rate and regional market rates for
3 each rated license level for each age category.

4 **SECTION 10.35.(f)** Facilities licensed pursuant to Article 7 of Chapter 110
5 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate
6 in the program that provides for the purchase of care in child care facilities for minor
7 children of needy families. No separate licensing requirements shall be used to select
8 facilities to participate. In addition, child care facilities shall be required to meet any
9 additional applicable requirements of federal law or regulations. Child care
10 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the
11 General Statutes shall meet the requirements established by other State law and by the
12 Social Services Commission.

13 County departments of social services or other local contracting agencies
14 shall not use a provider's failure to comply with requirements in addition to those
15 specified in this subsection as a condition for reducing the provider's subsidized child
16 care rate.

17 **SECTION 10.35.(g)** Payment for subsidized child care services provided
18 with Work First Block Grant funds shall comply with all regulations and policies issued
19 by the Division of Child Development for the subsidized child care program.

20 **SECTION 10.35.(h)** Noncitizen families who reside in this State legally
21 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
22 all other conditions of eligibility are met, noncitizen families who reside in this State
23 illegally shall be eligible for child care subsidies only if at least one of the following
24 conditions is met:

- 25 (1) The child for whom a child care subsidy is sought is receiving child
26 protective services or foster care services.
- 27 (2) The child for whom a child care subsidy is sought is developmentally
28 delayed or at risk of being developmentally delayed.
- 29 (3) The child for whom a child care subsidy is sought is a citizen of the
30 United States.

31
32 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

33 **CHILD CARE ALLOCATION FORMULA**

34 **SECTION 10.36.(a)** The Department of Health and Human Services shall
35 allocate child care subsidy voucher funds to pay the costs of necessary child care for
36 minor children of needy families. The mandatory thirty percent (30%) Smart Start
37 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
38 county's child care subsidy allocation. The Department of Health and Human Services
39 shall use the following method when allocating federal and State child care funds, not
40 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 41 (1) Funds shall be allocated based upon the projected cost of serving
42 children in a county under age 11 in families with all parents working
43 who earn less than seventy-five percent (75%) of the State median
44 income.
- 45 (2) No county's allocation shall be less than ninety percent (90%) of its
46 State Fiscal Year 2001-2002 initial child care subsidy allocation.

47 **SECTION 10.36.(b)** The Department of Health and Human Services may
48 reallocate unused child care subsidy voucher funds in order to meet the child care needs
49 of low-income families. Any reallocation of funds shall be based upon the expenditures
50 of all child care subsidy voucher funding, including Smart Start funds, within a county.

51
52 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

53 **CHILD CARE REVOLVING LOAN**

54 **SECTION 10.37.** Notwithstanding any law to the contrary, funds budgeted
55 for the Child Care Revolving Loan Fund may be transferred to and invested by the

1 financial institution contracted to operate the Fund. The principal and any income to the
2 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
3 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
4 cost of administering the program.
5

6 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

7 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
8 **ENHANCEMENTS**

9 **SECTION 10.38.(a)** Administrative costs shall be equivalent to, on an
10 average statewide basis for all local partnerships, not more than eight percent (8%) of
11 the total statewide allocation to all local partnerships. For purposes of this subsection,
12 administrative costs shall include costs associated with partnership oversight, business
13 and financial management, general accounting, human resources, budgeting,
14 purchasing, contracting, and information systems management.

15 **SECTION 10.38.(b)** The North Carolina Partnership for Children, Inc., and
16 all local partnerships shall use competitive bidding practices in contracting for goods
17 and services on contract amounts as follows:

- 18 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
19 specified by a written policy to be developed by the Board of Directors
20 of the North Carolina Partnership for Children, Inc.
- 21 (2) For amounts greater than five thousand dollars (\$5,000), but less than
22 fifteen thousand dollars (\$15,000), three written quotes.
- 23 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less
24 than forty thousand dollars (\$40,000), a request for proposal process.
- 25 (4) For amounts of forty thousand dollars (\$40,000) or more, request for
26 proposal process and advertising in a major newspaper.

27 **SECTION 10.38.(c)** The North Carolina Partnership for Children, Inc., and
28 all local partnerships shall, in the aggregate, be required to match no less than fifty
29 percent (50%) of the total amount budgeted for the program in each fiscal year of the
30 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and
31 in-kind donated resources equal to no more than five percent (5%) for a total match
32 requirement of twenty percent (20%) for each fiscal year. The North Carolina
33 Partnership for Children, Inc., may carry forward any amount in excess of the required
34 match for a fiscal year in order to meet the match requirement of the succeeding fiscal
35 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind
36 match requirement. Volunteer services may be treated as an in-kind contribution for the
37 purpose of the match requirement of this subsection. Volunteer services that qualify as
38 professional services shall be valued at the fair market value of those services. All other
39 volunteer service hours shall be valued at the statewide average wage rate as calculated
40 from data compiled by the Employment Security Commission in the Employment and
41 Wages in North Carolina Annual Report for the most recent period for which data are
42 available. Expenses, including both those paid by cash and in-kind contributions,
43 incurred by other participating non-State entities contracting with the North Carolina
44 Partnership for Children, Inc., or the local partnerships, also may be considered
45 resources available to meet the required private match. In order to qualify to meet the
46 required private match, the expenses shall:

- 47 (1) Be verifiable from the contractor's records.
- 48 (2) If in-kind, other than volunteer services, be quantifiable in accordance
49 with generally accepted accounting principles for nonprofit
50 organizations.
- 51 (3) Not include expenses funded by State funds.
- 52 (4) Be supplemental to and not supplant preexisting resources for related
53 program activities.

- 1 (5) Be incurred as a direct result of the Early Childhood Initiatives
2 Program and be necessary and reasonable for the proper and efficient
3 accomplishment of the Program's objectives.
- 4 (6) Be otherwise allowable under federal or State law.
- 5 (7) Be required and described in the contractual agreements approved by
6 the North Carolina Partnership for Children, Inc., or the local
7 partnership.
- 8 (8) Be reported to the North Carolina Partnership for Children, Inc., or the
9 local partnership by the contractor in the same manner as reimbursable
10 expenses.

11 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year
12 shall result in a dollar-for-dollar reduction in the appropriation for the Program for a
13 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be
14 responsible for compiling information on the private cash and in-kind contributions into
15 a report that is submitted to the Joint Legislative Commission on Governmental
16 Operations in a format that allows verification by the Department of Revenue. The same
17 match requirements shall apply to any expansion funds appropriated by the General
18 Assembly.

19 **SECTION 10.38.(d)** The Department of Health and Human Services shall
20 continue to implement the performance-based evaluation system.

21 **SECTION 10.38.(e)** The Department of Health and Human Services and the
22 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
23 for Early Childhood Education and Development Initiatives for State fiscal years
24 2003-2004 and 2004-2005 shall be administered and distributed in the following
25 manner:

- 26 (1) The North Carolina Partnership for Children, Inc., shall develop a
27 policy to allocate the reduction of funds for Early Childhood
28 Education and Development Initiatives for the 2003-2004 and
29 2004-2005 fiscal years.
- 30 (2) Capital expenditures and playground equipment expenditures are
31 prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes
32 of this section, "capital expenditures" means expenditures for capital
33 improvements as defined in G.S. 143-34.40.
- 34 (3) Expenditures of State funds for advertising and promotional activities
35 are prohibited for fiscal years 2003-2004 and 2004-2005.

36 **SECTION 10.38.(f)** For the 2003-2004 and 2004-2005 fiscal years, the
37 North Carolina Partnership for Children, Inc., shall not approve local partnership plans
38 that allocate State funds to child care providers for one-time quality improvement
39 initiatives in the following circumstances:

- 40 (1) Child care facilities with licensure of four or five stars, unless the
41 expenditure of funds is to expand capacity for low-income children.
- 42 (2) Child care facilities that do not accept child care subsidy funds.

43 **SECTION 10.38.(g)** For the 2003-2004 fiscal year, the local partnerships
44 shall spend an amount for child care subsidies that provides at least fifty-two million
45 dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child
46 Care Development Fund and Block Grant match requirement.

47 **SECTION 10.38.(h)** The North Carolina Partnership for Children, Inc., shall
48 develop a plan to focus on quality child care initiatives and child care subsidies, and
49 shall study any duplication of health services, family support, and program support
50 activities, and report same to the House and Senate Appropriations Chairs.

51 **SECTION 10.38.(i)** The North Carolina Partnership for Children, Inc., shall
52 develop a plan to incorporate a penalty into a local partnership's allocation based upon
53 poor audit results.

54 **SECTION 10.38.(j)** The North Carolina Partnership for Children, Inc., shall
55 report on activities and directives of this act by March 1, 2004, to the House of

1 Representatives Appropriations Subcommittee on Health and Human Services, the
2 Senate Appropriations Committee on Health and Human Services, and the Fiscal
3 Research Division.

4 **SECTION 10.38.(k)** G.S. 143B-168.12(a)(1) reads as rewritten:

5 "(1) The North Carolina Partnership shall have a Board of Directors
6 consisting of the following 25 members:

- 7 a. The Secretary of Health and Human Services, ex officio, or the
8 Secretary's designee;
- 9 b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
- 10 c. The Superintendent of Public Instruction, ex officio, or the
11 Superintendent's designee;
- 12 d. The President of the Community Colleges System, ex officio, or
13 the President's designee;
- 14 e. Three members of the public, including one child care provider,
15 one other who is a parent, and one other who is a board chair of
16 a local partnership serving on the North Carolina Partnership
17 local partnership advisory committee, appointed by the General
18 Assembly upon recommendation of the President Pro Tempore
19 of the Senate;
- 20 f. Three members of the public, including one who is a parent,
21 one other who is a representative of the faith community, and
22 one other who is a board chair of a local partnership serving on
23 the North Carolina Partnership local partnership advisory
24 committee, appointed by the General Assembly upon
25 recommendation of the Speaker of the House of
26 Representatives;
- 27 g. Twelve members, appointed by the Governor. Three of these 12
28 members shall be members of the party other than the
29 Governor's party, appointed by the Governor. Seven of these 12
30 members shall be appointed as follows: one who is a child care
31 provider, one other who is a pediatrician, one other who is a
32 health care provider, one other who is a parent, one other who is
33 a member of the business community, one other who is a
34 member representing a philanthropic agency, and one other who
35 is an early childhood educator;
- 36 h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective
37 October 30, 1998.
- 38 h1. The Chair of the North Carolina Partnership Board shall be
39 appointed by the Governor;
- 40 i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective
41 October 30, 1998.
- 42 j. One member of the public appointed by the General Assembly
43 upon recommendation of the Majority Leader of the Senate;
- 44 k. One member of the public appointed by the General Assembly
45 upon recommendation of the Majority Leader of the House of
46 Representatives;
- 47 l. One member of the public appointed by the General Assembly
48 upon recommendation of the Minority Leader of the Senate;
49 and
- 50 m. One member of the public appointed by the General Assembly
51 upon recommendation of the Minority Leader of the House of
52 Representatives.

53 All members appointed to succeed the initial members and
54 members appointed thereafter shall be appointed for three-year terms.
55 Members may succeed themselves.

1 All appointed board members shall avoid conflicts of interests and
2 the appearance of impropriety. Should instances arise when a conflict
3 may be perceived, any individual who may benefit directly or
4 indirectly from the North Carolina Partnership's disbursement of funds
5 shall abstain from participating in any decision or deliberations by the
6 North Carolina Partnership regarding the disbursement of funds.

7 All ex officio members are voting members. Each ex officio
8 member may be represented by a designee. These designees shall be
9 voting members. No members of the General Assembly shall serve as
10 members.

11 The North Carolina Partnership may establish a nominating
12 committee and, in making their recommendations of members to be
13 appointed by the General Assembly or by the Governor, the President
14 Pro Tempore of the Senate, the Speaker of the House of
15 Representatives, the Majority Leader of the Senate, the Majority
16 Leader of the House of Representatives, the Minority Leader of the
17 Senate, the Minority Leader of the House of Representatives, and the
18 Governor shall consult with and consider the recommendations of this
19 nominating committee.

20 The North Carolina Partnership may establish a policy on
21 members' attendance, which policy shall include provisions for
22 reporting absences of at least three meetings immediately to the
23 appropriate appointing authority.

24 Members who miss more than three consecutive meetings without
25 excuse or members who vacate their membership shall be replaced by
26 the appropriate appointing authority, and the replacing member shall
27 serve either until the General Assembly and the Governor can appoint
28 a successor or until the replaced member's term expires, whichever is
29 earlier.

30 The North Carolina Partnership shall establish a policy on
31 membership of the local board, ~~which policy shall include the~~
32 ~~requirement that all local board members, other than any member~~
33 ~~appointed because of a position held by that individual, be residents of~~
34 ~~the county or the partnership region they are representing boards.~~ No
35 member of the General Assembly shall serve as a member of a local
36 board. Within these requirements for local board membership, the
37 North Carolina Partnership shall allow local partnerships that are
38 regional to have flexibility in the composition of their boards so that
39 all counties in the region have adequate representation.

40 All appointed local board members shall avoid conflicts of interests
41 and the appearance of impropriety. Should instances arise when a
42 conflict may be perceived, any individual who may benefit directly or
43 indirectly from the partnership's disbursement of funds shall abstain
44 from participating in any decision or deliberations by the partnership
45 regarding the disbursement of funds."

46 **SECTION 10.38.(1)** G.S. 143B-168.12(a)(8) reads as rewritten:

47 " ...
48 (8)

49 The North Carolina Partnership shall establish a local partnership
50 advisory committee comprised of 15 members. Eight of the members
51 shall be chairs of chosen from past board chairs or duly elected officers
52 currently serving on local partnerships' board of directors, and seven
53 directors at the time of appointment and shall serve three-year terms.
54 Seven of the members shall be staff of local partnerships. Members
55 shall be chosen by the Chair of the North Carolina Partnership from a
pool of candidates nominated by their respective boards of directors.

1 The local partnership advisory committee shall serve in an advisory
 2 capacity to the North Carolina Partnership and shall establish a
 3 schedule of regular meetings. Members shall be chosen from local
 4 partnerships on a rotating basis. The advisory committee shall annually
 5 elect a chair from among its members.

6 "...."

7 **SECTION 10.38.(m)** G.S. 143B-168.12 is amended by adding a new
 8 subsection to read:

9 "**(f)** The North Carolina Partnership for Children, Inc., shall establish uniform
 10 guidelines and reporting format for local partnerships to document the qualifying
 11 expenses occurring at the contractor level. Local partnerships shall monitor qualifying
 12 expenses to ensure they have occurred and meet the requirements prescribed in this
 13 subsection."

14
 15 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

16 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
 17 **EVALUATION**

18 **SECTION 10.39.** The Department of Health and Human Services, Division
 19 of Child Development, may evaluate the Early Childhood Education and Development
 20 Initiatives. The evaluation may include:

- 21 (1) Evaluation of the Early Childhood Education and Development
 22 Initiatives, including the ongoing review of quality child care efforts
 23 and child care providers' progress in preparing children to be ready to
 24 enter school and succeed.
- 25 (2) Continuation of technical assistance to local partnerships in data
 26 collection and evaluation.

27
 28 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

29 **DEPARTMENT PLAN FOR FAMILY CHILD CARE HOME FEES**

30 **SECTION 10.39A.** The Department of Health and Human Services,
 31 Division of Child Development, shall develop a plan proposing fees for the licensing of
 32 family child care homes. The Department shall report on the plan to the Senate
 33 Appropriations Committee on Health and Human Services, the House of
 34 Representatives Appropriations Subcommittee on Health and Human Services, and the
 35 Fiscal Research Division not later than April 1, 2004.

36
 37 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

38 **MORE AT FOUR PROGRAM**

39 **SECTION 10.40.(a)** Of the funds appropriated to the Department of Health
 40 and Human Services the sum of forty-three million one hundred twenty-one thousand
 41 eight hundred dollars (\$43,121,800) in the 2003-2004 fiscal year and the sum of
 42 forty-one million nine hundred twenty-one thousand eight hundred dollars
 43 (\$41,921,800) in the 2004-2005 fiscal year shall be used to implement "More At Four",
 44 a voluntary prekindergarten program for at-risk four-year-olds.

45 **SECTION 10.40.(b)** The Department of Health and Human Services and the
 46 Department of Public Instruction shall establish the "More At Four" Pre-K Task Force
 47 to oversee development and implementation of the pilot program. The membership shall
 48 include:

- 49 (1) Parents of at-risk children.
- 50 (2) Representatives with expertise in early childhood development.
- 51 (3) Classroom teachers who are certified in early childhood education.
- 52 (4) Representatives of the private not-for-profit and for-profit child care
 53 providers in North Carolina.
- 54 (5) Employees of the Department of Health and Human Services who are
 55 knowledgeable in the areas of early childhood development, current

1 State and federally funded efforts in child development, and providing
2 child care.

3 (6) Representatives of local Smart Start partnerships.

4 (7) Representatives of local school administrative units.

5 (8) Representatives of Head Start prekindergarten programs in North
6 Carolina.

7 (9) Employees of the Department of Public Instruction.

8 **SECTION 10.40.(c)** The Department of Health and Human Services and the
9 Department of Public Instruction, with guidance from the Task Force, shall continue the
10 implementation of the "More At Four" prekindergarten program for at-risk
11 four-year-olds who are at risk of failure in kindergarten. The program is available
12 statewide to all counties that choose to participate, including underserved areas. The
13 goal of the program is to provide quality prekindergarten services to a greater number of
14 at-risk children in order to enhance kindergarten readiness for these children. The
15 program shall be consistent with standards and assessments established jointly by the
16 Department of Health and Human Services, the Department of Public Instruction, and
17 the Task Force and may consider the "More At Four" Pre-K Task Force
18 recommendations. The program shall include:

19 (1) A process and system for identifying children at risk of academic
20 failure.

21 (2) A process and system for identifying children who are not being
22 served first priority in formal early education programs, such as child
23 care, public or private preschools, Head Start, Early Head Start, early
24 intervention programs, or other such programs, who demonstrate
25 educational needs, and who are eligible to enter kindergarten the next
26 school year, as well as children who are underserved.

27 (3) A curriculum or several curricula that are recommended by the Task
28 Force. The Task Force will identify and approve appropriate
29 research-based curricula. These curricula shall: (i) focus primarily on
30 oral language and emergent literacy; (ii) engage children through key
31 experiences and provide background knowledge requisite for formal
32 learning and successful reading in the early elementary years; (iii)
33 involve active learning; (iv) promote measurable kindergarten
34 language-readiness skills that focus on emergent literacy and
35 mathematical skills; and (v) develop skills that will prepare children
36 emotionally and socially for kindergarten.

37 (4) An emphasis on ongoing family involvement with the prekindergarten
38 program.

39 (5) Evaluation of child progress through pre- and post-assessment of
40 children in the statewide evaluation, as well as ongoing assessment of
41 the children by teachers.

42 (6) Guidelines for a system to reimburse local school boards and systems,
43 private child care providers, and other entities willing to establish and
44 provide prekindergarten programs to serve at-risk children.

45 (7) A system built upon existing local school boards and systems, private
46 child care providers, and other entities that demonstrate the ability to
47 establish or expand prekindergarten capacity.

48 (8) A quality-control system. Participating providers shall comply with
49 standards and guidelines as established by the Department of Health
50 and Human Services, the Department of Public Instruction, and the
51 Task Force. The Department may use the child care rating system to
52 assist in determining program participation.

53 (9) Standards for minimum teacher qualifications. A portion of the
54 classroom sites initially funded shall have at least one teacher who is
55 certified or provisionally certified in birth to kindergarten education.

- 1 (10) A local contribution. Programs must demonstrate that they are
2 accessing resources other than "More At Four".
3 (11) A system of accountability.
4 (12) Collaboration with State agencies and other organizations. The
5 Department of Health and Human Services, the Department of Public
6 Instruction, and the Task Force shall collaborate with State agencies
7 and other organizations such as the North Carolina Partnership for
8 Children, Inc., in the design and implementation of the program.
9 (13) Consideration of the reallocation of existing funds. In order to
10 maximize current funding and resources, the Department of Health and
11 Human Services, the Department of Public Instruction, and the Task
12 Force shall consider the reallocation of existing funds from State and
13 local programs that provide prekindergarten related care and services.
14 (14) Recommendations for long-term organizational placement and
15 administration of the program.

16 **SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of
17 Health and Human Services shall plan for expansion of the "More At Four" program
18 within existing resources to include four and five star rated centers and schools serving
19 four-year-olds and develop guidelines for these programs. The Department shall analyze
20 guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start
21 subsidy funds and devise a complementary plan for administration of funds for all
22 four-year-old classrooms. The four and five star centers that choose to become a "More
23 at Four" program shall, at a minimum, receive curricula and access to training and
24 workshops for "More at Four" programs and be considered along with other "More at
25 Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual
26 receives funding from more than one source for the same purpose or activity during the
27 same funding period. For purposes of this subsection, sources shall include T.E.A.C.H.,
28 W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

29 The Department may use nonobligated "More At Four" funds for the
30 2003-2004 fiscal year to reduce the waiting list for subsidy, with priority given to
31 four-year-olds attending three star or better centers. If there are funds remaining after
32 the waiting list for four-year-olds has been satisfied, then the waiting list for other
33 children may be addressed with the remaining funds.

34 **SECTION 10.40.(e)** The Department of Health and Human Services, the
35 Department of Public Instruction, and the Task Force shall submit a progress report by
36 January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on
37 Governmental Operations, the Joint Legislative Education Oversight Committee, the
38 Senate Appropriations Committee on Health and Human Services, the House of
39 Representatives Appropriations Subcommittee on Health and Human Services, and the
40 Fiscal Research Division. This final report shall include the following:

- 41 (1) The number of children participating in the program.
42 (2) The number of children participating in the program who have never
43 been served in other early education programs, such as child care,
44 public or private preschool, Head Start, Early Head Start, or early
45 intervention programs.
46 (3) The expected expenditures for the programs and the source of the local
47 match for each grantee.
48 (4) The location of program sites and the corresponding number of
49 children participating in the program at each site.
50 (5) Activities involving Child Find in counties.
51 (6) A comprehensive cost analysis of the program, including the cost per
52 child served by the program.
53 (7) The plan for expansion of "More At Four" through existing resources
54 as outlined in this section.
55

SUBPART 6. OFFICE OF EDUCATIONAL SERVICES

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

RESIDENTIAL SCHOOLS REPORTING

SECTION 10.41. The Office of Education Services shall report not later than December 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABCs program.

SUBPART 7. DIVISION OF AGING

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

SENIOR CENTER OUTREACH

SECTION 10.42.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 2003-2005 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or

(2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 10.42.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

(1) Formally endorse the need for such a center;

(2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 10.42.(c) State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

SUBPART 8. DIVISION OF SOCIAL SERVICES

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES

SECTION 10.43.(a) In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop a model project for delivering community-based mental health, developmental disabilities, and substance abuse housing and services through adult care homes that have excess capacity. The model shall be designed for implementation on a pilot basis and shall address the following:

(1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.

(2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.

(3) Physical plant additions or changes necessary to provide for independent living of residents.

(4) Methods for assuring quality of services, resident safety, and cost-effectiveness.

- 1 (5) Consistency with the Department's Olmstead plan, other policies on
2 community-integration, and disability plans adopted by the State.

3 **SECTION 10.43.(b)** The Department shall submit a final report on the
4 development of the model to the Senate Appropriations Committee on Health and
5 Human Services, the House of Representatives Appropriations Subcommittee on Health
6 and Human Services, and the Fiscal Research Division on or before March 1, 2004. The
7 report shall address the following:

- 8 (1) Proposed time and location for implementation of the pilot.
9 (2) Proposed number of residents to be placed and services to be provided
10 directly by the facility or under contract with the facility.
11 (3) Method for evaluating the pilot, including services provided, on a
12 regular basis.
13 (4) A description of the living environment for each resident and a
14 comparison of how the living environment compares to that of other
15 residents in the adult care home.
16 (5) Changes to State law necessary to implement the pilot.
17 (6) Projected cost to the State for pilot and statewide implementation.
18

19 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

20 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

21 **SECTION 10.44.(a)** It is the intent of the General Assembly to increase the
22 productivity and enhance the performance of child support enforcement offices
23 statewide.

24 **SECTION 10.44.(b)** The Department of Health and Human Services shall
25 develop and implement performance standards for each of the State and county child
26 support enforcement offices across the State. To develop these performance standards,
27 the Department of Health and Human Services shall evaluate other private and public
28 child support models and national standards as well as other successful collections
29 models. These performance standards shall include the following:

- 30 (1) Cost per collections.
31 (2) Consumer satisfaction.
32 (3) Paternity establishments.
33 (4) Administrative costs.
34 (5) Orders established.
35 (6) Collections on arrearages.
36 (7) Location of absent parents.
37 (8) Other related performance measures.

38 The Department of Health and Human Services shall monitor the
39 performance of each office and shall implement a system of reporting that allows each
40 local office to review its performance as well as the performance of other local offices.
41 The Department of Health and Human Services shall publish an annual performance
42 report that shall include the statewide and local office performance of each child support
43 office.

44 **SECTION 10.44.(c)** The Department of Health and Human Services shall
45 report on its progress, in compliance with this section, to the Senate Appropriations
46 Committee on Health and Human Services, the House of Representatives
47 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
48 Division by May 1, 2005.

49 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

50 **SPECIAL NEEDS ADOPTIONS INCENTIVE FUND**

51 **SECTION 10.45.** Part 4 of Article 2 of Chapter 108A of the General
52 Statutes is amended by adding a new section to read:

53 **"§ 108A-50A. Special Needs Adoptions Incentive Fund.**
54

1 (a) There is created a Special Needs Adoptions Incentive Fund to provide
2 financial assistance to facilitate the adoption of certain children residing in licensed
3 foster care homes. These funds shall be used to remove financial barriers to the adoption
4 of these children and shall be available to foster care families who adopt children with
5 special needs, as defined by the Social Services Commission. These funds shall be
6 matched by county funds.

7 (b) This program shall not constitute an entitlement and is subject to the
8 availability of funds.

9 (c) The Social Services Commission shall adopt rules to implement the
10 provisions of this section."

11
12 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

13 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

14 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
15 care assistance program are established on a graduated scale as follows:

- 16 (1) \$365.00 per child per month for children aged birth through 5;
- 17 (2) \$415.00 per child per month for children aged 6 through 12; and
- 18 (3) \$465.00 per child per month for children aged 13 through 18.

19 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the
20 child.

21 **SECTION 10.46.(b)** The maximum rates for State participation in the
22 adoption assistance program are established on a graduated scale as follows:

- 23 (1) \$365.00 per child per month for children aged birth through 5;
- 24 (2) \$415.00 per child per month for children aged 6 through 12; and
- 25 (3) \$465.00 per child per month for children aged 13 through 18.

26 **SECTION 10.46.(c)** In addition to providing board payments to foster and
27 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
28 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
29 for this purpose shall be used to provide medical training in avoiding HIV transmission
30 in the home.

31 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
32 foster care and adoption assistance are established on a graduated scale as follows:

- 33 (1) \$800.00 per month per child with indeterminate HIV status;
- 34 (2) \$1,000 per month per child confirmed HIV-infected, asymptomatic;
- 35 (3) \$1,200 per month per child confirmed HIV-infected, symptomatic; and
- 36 (4) \$1,600 per month per child terminally ill with complex care needs.

37
38 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

39 **SPECIAL CHILDREN ADOPTION FUND**

40 **SECTION 10.47.(a)** Of the funds appropriated to the Department of Health
41 and Human Services in this act, the sum of one million one hundred thousand dollars
42 (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year
43 of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with
44 the North Carolina Association of County Directors of Social Services and
45 representatives of licensed private adoption agencies, shall develop guidelines for the
46 awarding of funds to licensed public and private adoption agencies upon the adoption of
47 children described in G.S. 108A-50 and in foster care. Payments received from the
48 Special Children Adoption Fund by participating agencies shall be used exclusively to
49 enhance the adoption services. No local match shall be required as a condition for
50 receipt of these funds. In accordance with State rules for allowable costs, the Special
51 Children Adoption Fund may be used for post-adoption services for families whose
52 income exceed two hundred percent (200%) of the federal poverty level.

53 **SECTION 10.47.(b)** Of the total funds appropriated for the Special Children
54 Adoption Fund each year, twenty-five percent (25%) of the total funds available shall be
55 reserved for payment to participating private adoption agencies. If the funds reserved in

1 this subsection for payments to private agencies have not been spent on or before March
2 31, 2004, the Division of Social Services may reallocate those funds, in accordance with
3 this section, to other participating adoption agencies.
4

5 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

6 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**
7 **PERFORMANCE ENHANCEMENTS**

8 **SECTION 10.48.(a)** The Department of Health and Human Services shall
9 review the Intensive Family Preservation Services Program (IFPS) to enhance and
10 implement initiatives that focus on increasing the sustainability and effectiveness of the
11 Program.

12 **SECTION 10.48.(b)** Notwithstanding the provisions of G.S. 143B-150.6,
13 the Program shall provide intensive services to children and families in cases of abuse,
14 neglect, and dependency where a child is at imminent risk of removal from the home
15 and to children and families in cases of abuse where a child is not at imminent risk of
16 removal. The Program shall be developed and implemented statewide on a regional
17 basis. The revised IFPS shall ensure the application of standardized assessment criteria
18 for determining imminent risk and clear criteria for determining out-of-home placement.

19 **SECTION 10.48.(c)** The Department of Health and Human Services shall
20 require that any program or entity that receives State, federal, or other funding for the
21 purpose of Intensive Family Preservation Services shall provide information and data
22 that allows for:

- 23 (1) An established follow-up system with a minimum of six months of
24 follow-up services.
- 25 (2) Detailed information on the specific interventions applied including
26 utilization indicators and performance measurement.
- 27 (3) Cost-benefit data.
- 28 (4) Data on long-term benefits associated with Intensive Family
29 Preservation Services. This data shall be obtained by tracking families
30 through the intervention process.
- 31 (5) The number of families remaining intact and the associated
32 interventions while in IFPS and 12 months thereafter.
- 33 (6) The number and percentage by race of children who received Intensive
34 Family Preservation Services compared to the ratio of their distribution
35 in the general population involved with Child Protective Services.

36 **SECTION 10.48.(d)** The Department shall establish performance-based
37 funding protocol and shall only provide funding to those programs and entities
38 providing the required information specified in subsection (c) of this section. The
39 amount of funding shall be based on the individual performance of each program.

40 **SECTION 10.48.(e)** The Department of Health and Human Services shall
41 report to the Senate Appropriations Committee on Health and Human Services, the
42 House of Representatives Appropriations Subcommittee on Health and Human
43 Services, and the Fiscal Research Division not later than April 1, 2004. The report shall
44 include information and data collected pursuant to subsection (c) of this section.
45

46 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

47 **TANF STATE PLAN**

48 **SECTION 10.49.(a)** The General Assembly approves the plan titled "North
49 Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared
50 by the Department of Health and Human Services and presented to the General
51 Assembly on May 15, 2003, as revised in accordance with subsection (b) of this section.
52 The North Carolina Temporary Assistance for Needy Families State Plan covers the
53 period October 1, 2003, through September 30, 2005. The Department shall submit the
54 State Plan, as revised in accordance with subsection (b) of this section, to the United

1 States Department of Health and Human Services as amended by this act or any other
2 act of the 2003 General Assembly.

3 **SECTION 10.49.(b)** The Department of Health and Human Services shall
4 revise the North Carolina Temporary Assistance for Needy Families State Plan FY
5 2003-2005, submitted to the General Assembly for approval on May 15, 2003. The
6 revisions shall be made to the following Plan components:

- 7 (1) Enhanced Employee Assistance Program to reflect changes in funding.
- 8 (2) Services for Families to remove reference to start-up activities.
- 9 (3) Work Responsibility to remove reference to start-up activities.
- 10 (4) Cabarrus County Waiver to reflect changes in the law made by the
11 2003 General Assembly.
- 12 (5) Goal number eight to provide that caseload reduction goals are subject
13 to economic conditions in the county.

14 **SECTION 10.49.(c)** The counties approved as Electing Counties in North
15 Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as
16 approved by this section are: Beaufort, Caldwell, Iredell, Lenoir, Lincoln, Macon,
17 McDowell, Sampson, and Wilkes.

18 **SECTION 10.49.(d)** Counties designated as Electing Counties pursuant to
19 G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard
20 county and the accompanying county plan for fiscal years 2003 through 2005, pursuant
21 to G.S. 108A-27(e), shall operate under the standard county budget requirements
22 effective July 1, 2003. Counties that submitted the letter of intent to remain as an
23 Electing County or to be redesignated as an Electing County and the accompanying
24 county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall
25 operate under the Electing County budget requirements effective July 1, 2003. For
26 programmatic purposes, all counties referred to in this subsection shall remain under
27 their current county designation through September 30, 2003.

28
29 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

30 **ELECTING COUNTY TANF FUNDS REVERT**

31 **SECTION 10.50.** G.S. 108A-27.11(c) reads as rewritten:

32 "(c) Each Electing County's allocation for Work First Family Assistance shall be
33 computed based on the percentage of each Electing County's total expenditures for cash
34 assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting
35 percentage shall be applied to the federal TANF block grant funds appropriated for cash
36 assistance by the General Assembly each fiscal year. The Department shall transmit the
37 federal funds contained in the county block grants to Electing Counties as soon as
38 practicable after they become available to the State and in accordance with federal cash
39 management laws and regulations. ~~The Department shall transmit one fourth of the~~
40 ~~State funds contained in county block grants to Electing Counties at the beginning of~~
41 ~~each quarter."~~

42
43 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

44 **SPECIAL ASSISTANCE IN-HOME PROGRAM**

45 **SECTION 10.51.(a)** The Department of Health and Human Services may
46 use funds from the existing State-County Special Assistance for Adults budget to
47 provide Special Assistance payments to eligible individuals in in-home living
48 arrangements. These payments may be made for up to 800 individuals during the
49 2003-2004 fiscal year and the 2004-2005 fiscal year. The standard monthly payment to
50 individuals enrolled in the Special Assistance in-home program shall be fifty percent
51 (50%) of the monthly payment the individual would receive if the individual resided in
52 an adult care home and qualified for Special Assistance, except if a lesser payment
53 amount is appropriate for the individual as determined by the local case manager. For
54 State fiscal year 2003-2004, qualified individuals shall not receive payments at rates
55 less than they would have been eligible to receive in State fiscal year 2002-2003. The

1 Department shall implement Special Assistance in-home eligibility policies and
2 procedures to assure that in-home program participants are those individuals who need
3 and, but for the in-home program, would seek placement in an adult care home facility.
4 The Department's policies and procedures shall include the use of a functional
5 assessment. The Department shall make this in-home option available to all counties on
6 a voluntary basis. To the maximum extent possible, the Department shall consider
7 geographic balance in the dispersion of payments to individuals across the State.

8 **SECTION 10.51.(b)** The Department shall report to the cochairs of the
9 House of Representatives Appropriations Committee, the House of Representatives
10 Appropriations Subcommittee on Health and Human Services, the cochairs of the
11 Senate Appropriations Committee, and the cochairs of the Senate Appropriations
12 Committee on Health and Human Services by January 1, 2005. This report shall include
13 the following information:

- 14 (1) A description of cost savings that result from allowing individuals
15 eligible for State-county Special Assistance the option of remaining in
16 the home.
- 17 (2) A complete fiscal analysis of the in-home option to include all federal,
18 State, and local funds expended.
- 19 (3) How much case management is needed and which types of individuals
20 are most in need of case management.
- 21 (4) The geographic location of individuals receiving payments under this
22 section.
- 23 (5) A description of the services purchased with these payments.
- 24 (6) A description of the income levels of individuals who receive
25 payments under this section and the impact on the Medicaid program.
- 26 (7) Findings and recommendations as to the feasibility of continuing or
27 expanding the in-home program.
- 28 (8) The level and quantity of services (including personal care services)
29 provided to the demonstration project participants compared to the
30 level and quantity of services for residents in adult care homes.

31 **SECTION 10.51.(c)** The Department shall incorporate data collection tools
32 designed to compare quality of life among institutionalized versus noninstitutionalized
33 populations (i.e., an individual's perception of his or her own health and well-being,
34 years of healthy life, and activity limitations). To the extent national standards are
35 available, the Department shall utilize those standards.

36
37 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

38 STATE/COUNTY SPECIAL ASSISTANCE

39 **SECTION 10.52.(a)** The eligibility of Special Assistance recipients residing
40 in adult care homes on August 1, 1995, shall not be affected by an income reduction in
41 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
42 Methodology Report and Related Services, providing these recipients are otherwise
43 eligible. The maximum monthly rate for these residents in adult care home facilities
44 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

45 **SECTION 10.52.(b)** The maximum monthly rate for residents in adult care
46 home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident
47 through September 30, 2003.

48 **SECTION 10.52.(c)** Effective October 1, 2003, the maximum monthly rate
49 for residents in adult care home facilities shall be one thousand forty dollars (\$1,040)
50 per month per resident unless adjusted by the Department in accordance with subsection
51 (f) of this section.

52 **SECTION 10.52.(d)** The eligibility of Special Assistance recipients who
53 reside in adult care homes on September 30, 2003, and remain continuously eligible
54 shall not be affected by an income reduction in the Special Assistance eligibility criteria,
55 providing these recipients are otherwise eligible. The maximum monthly rate for these

1 residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091)
2 per month per resident.

3 **SECTION 10.52.(e)** The sum of three million one hundred eighty-nine
4 thousand six hundred seventy-five dollars (\$3,189,675) for the 2003-2004 fiscal year
5 and the sum of four million four hundred thirty-one thousand eight hundred forty-six
6 dollars (\$4,431,846) for the 2004-2005 fiscal year appropriated to the Department of
7 Health and Human Services shall be transferred from the Division of Social Services to
8 the Division of Medical Assistance and used as State match to draw down federal
9 matching funds to help pay for Medicaid's personal care services for adult care homes
10 (ACH-PCS) rather than the State/County Special Assistance Program.

11 **SECTION 10.52.(f)** Notwithstanding any other provision of this section, the
12 Department of Health and Human Services shall review activities and costs related to
13 the provision of care in adult care homes and shall determine what costs may be
14 considered to properly maximize allowable reimbursement available through Medicaid
15 personal care services for adult care homes (ACH-PCS) under federal law. As
16 determined, and with any necessary approval from the Centers for Medicare and
17 Medicaid Services (CMS), and the approval of the Office of State Budget and
18 Management, the Department may transfer necessary funds from the State/County
19 Special Assistance program within the Division of Social Services to the Division of
20 Medical Assistance and may use those funds as State match to draw down federal
21 matching funds to pay for such activities and costs under Medicaid's personal care
22 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
23 The established rate for State/County Special Assistance set forth in subsection (c) of
24 this section shall be reduced by the Department to reflect any transfer of funds from the
25 Division of Social Services to the Division of Medical Assistance, and related transfer
26 costs and responsibilities from State/County Special Assistance to the Medicaid
27 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
28 Special Assistance rate shall be effective with the effective date of increased
29 reimbursement under ACH-PCS. In no event shall the reimbursement for services
30 through the ACH-PCS exceed the average cost of such services as determined by the
31 Department from review of cost reports as required and submitted by adult care homes.
32 The Department shall report any transfers of funds and modifications of rates to the
33 House of Representatives Appropriations Subcommittee on Health and Human
34 Services, the Senate Appropriations Committee on Health and Human Services, and the
35 Fiscal Research Division.

36
37 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan
38 **STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS**

39 **SECTION 10.53.(a)** G.S. 108A-46 is repealed.

40 **SECTION 10.53.(b)** Part 3 of Article 2 of Chapter 108A is amended by
41 adding the following new section to read:

42 **"§ 108A-46A. Transfer of assets for purposes of qualifying for State-county Special**
43 **Assistance for adults.**

44 Notwithstanding any other provision of law to the contrary, Supplemental Security
45 Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by
46 federal law, shall apply to applicants for State-county Special Assistance."

47 **SECTION 10.53.(b)** The Department of Health and Human Services shall
48 continue to review whether policy for State-county Special Assistance should be
49 changed to permit an assisted living facility to accept from a family member of a
50 resident who qualifies for State-county Special Assistance payment for the difference in
51 the monthly rate for room, board, and services available. In reviewing current policy,
52 the Department shall consider the following conditions on family contributions to the
53 resident's cost of care:

- 54 (1) Ensuring that the resident meets all income and resource eligibility
55 requirements for State-county Special Assistance.

1 (2) Not counting payments made by family members to the facility as
2 income to the resident or as an in-kind contribution when calculating
3 the monthly rate applicable to the resident.

4 (3) Ensuring that supplemental payments are made on a voluntary basis as
5 specified in the resident agreement.

6 Not later than March 1, 2004, the Department shall report on its activities under this
7 subsection to the Senate Appropriations Committee on Health and Human Services, the
8 House of Representatives Appropriations Subcommittee on Health and Human
9 Services, and the Fiscal Research Division.

10
11 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

12 **LIMITATION ON STATE ABORTION FUNDING**

13 **SECTION 10.54.** The limitations on funding of the performance of abortion
14 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
15 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2003-2004 and
16 2004-2005 fiscal years.

17
18 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

19 **FUNDS FOR FOOD BANKS**

20 **SECTION 10.55.(a)** Of the funds appropriated to the Department of Health
21 and Human Services in this act, the sum of one million dollars (\$1,000,000) for the
22 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North
23 Carolina food banks.

24 **SECTION 10.55.(b)** Each organization shall report to the Department of
25 Health and Human Services and the Fiscal Research Division on the activities
26 performed and the impact on local communities directly associated with the funds
27 allocated in subsection (a) of this section by April 1, 2004. Each organization shall
28 provide to the Department of Health and Human Services and the Fiscal Research
29 Division a copy of its annual audited financial statement within 30 days of issuance of
30 the statement.

31
32 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

33 **CHILD WELFARE SYSTEM PILOTS SYSTEM**

34 **SECTION 10.56.(a)** The Department of Health and Human Services,
35 Division of Social Services, shall continue working with local departments of social
36 services to implement an alternative response system of child protection in no fewer
37 than 10 and no more than 33 demonstration areas in this State. The Division of Social
38 Services may exceed the maximum number of demonstration areas if a county
39 specifically requests inclusion and the Division determines that resources are available.
40 The demonstration projects in place in the 2003-2004 fiscal year shall continue. The
41 alternative response system shall provide for a family-centered approach to child
42 protective services which local departments of social services utilize family assessment
43 tools and family support principles when responding to selected reports of suspected
44 child neglect and dependency.

45 **SECTION 10.56.(b)** The Department of Health and Human Services shall
46 evaluate the original pilot demonstration areas to determine the impact the alternative
47 response system to child protective services has had in the following areas:

- 48 (1) Child safety.
- 49 (2) Timeliness of response.
- 50 (3) Timeliness of service.
- 51 (4) Coordination of local human services.

52 **SECTION 10.56.(c)** The Department of Health and Human Services shall
53 proceed to expand this demonstration project if non-State funds are identified for this
54 purpose.

1 **SECTION 10.56.(d)** The Department of Health and Human Services shall
2 report on the outcome of the evaluation of the original pilot demonstration areas
3 pursuant to subsection (b) of this section and the expansion of the demonstration areas.
4 The Department shall make recommendations for statewide implementation of an
5 alternative response system to child protective services. The report shall include any
6 statutory changes required for full implementation. Any recommendations for statutory
7 changes contained in the report shall be eligible for consideration by the 2003 General
8 Assembly in the 2004 Regular Session. The report shall be submitted to the Senate
9 Appropriations Committee on Health and Human Services, the House of
10 Representatives Appropriations Subcommittee on Health and Human Services, and the
11 Fiscal Research Division not later than April 1, 2004.

12
13 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

14 **ELIMINATE REPORTING REQUIREMENTS FOR WORK FIRST PROGRAM**

15 **SECTION 10.57.** G.S. 108A-27.2 reads as rewritten:

16 **"§ 108A-27.2. General duties of the Department.**

17 The Department shall have the following general duties with respect to the Work
18 First Program:

- 19 (1) Ensure that the specifications of the general provisions of the State
20 Plan regarding the procedures required when recipients are sanctioned,
21 prescribed in G.S. 108A-27.9(c), are uniformly developed and
22 implemented across the State;
- 23 (1a) Provide technical assistance to counties developing and implementing
24 their County Plans, including providing information concerning
25 applicable federal law and regulations and changes to federal law and
26 regulations that affect the permissible use of federal funds and scope of
27 the Work First Program in a county;
- 28 (1b) Reserved for future codification purposes.
- 29 (1c) Ensure that two-parent families receive cash assistance for three
30 months after qualifying for assistance without being subject to pay for
31 performance requirements, in order to encourage families to stay
32 together and to overcome barriers to self-sufficiency and gainful
33 employment. Cash assistance or diversion assistance received prior to
34 being subject to pay for performance requirements is limited to one
35 time within a 12-month period.
- 36 (2) Describe authorized federal and State work activities. For up to twenty
37 percent (20%) of Work First recipients, authorized State work
38 activities shall include at least part-time enrollment in a postsecondary
39 education program. In Standard Counties, recipients enrolled on at
40 least a part-time basis in a postsecondary education program and
41 maintaining a 2.5 grade point average or its equivalent shall have their
42 two-year time limit suspended for up to three years.
- 43 (3) Define requirements for assignment of child support income and
44 compliance with child support activities;
- 45 (4) Establish a schedule for counties to submit their County Plans to
46 ensure that all Standard County Plans are adopted by the Standard
47 Program Counties by January 15 of each odd-numbered year and all
48 Electing County Plans are adopted by Electing Counties by February 1
49 of each odd-numbered year and review and then recommend a State
50 Plan to the General Assembly;
- 51 (5) Ensure that the County Plans comply with federal and State laws,
52 rules, and regulations, are consistent with the overall purposes and
53 goals of the Work First Program, and maximize federal receipts for the
54 Work First Program;

- 1 (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal
2 laws and regulations and submit it to the Budget Director for approval;
3 (7) Submit the State Plan, as approved by the Budget Director, to the
4 General Assembly for approval;
5 ~~(8) Report monthly to the Senate Appropriations Committee on Health
6 and Human Services and the House of Representatives Appropriations
7 Subcommittee on Health and Human Services on the monthly progress
8 reports submitted by the counties to the Department;~~
9 (9) Develop and implement a system to monitor and evaluate the impact
10 of the Work First Program on children and families, including the
11 impact of the Work First Program on job retention and advancement,
12 child abuse and neglect, caseloads for child protective services and
13 foster care, school attendance, academic and behavioral performance,
14 and other measures of the economic security and health of children and
15 families. The system should be developed to allow monitoring and
16 evaluation of impact based on both aggregated and disaggregated data.
17 State and county agencies shall cooperate in providing information
18 needed to conduct these evaluations, sharing data and information
19 except where prohibited specifically by federal law or regulation;
20 (10) Monitor the performance of counties relative to their County Plans and
21 the overall goals of the Work First Program and report every six
22 months to the Director of the Budget and the Senate Appropriations
23 Committee on Health and Human Services and the House of
24 Representatives Appropriations Subcommittee on Health and Human
25 Services and annually to the General Assembly on the counties'
26 attainment of the outcomes and goals;Program;
27 ~~(11) Provide quarterly progress reports to the county departments of social
28 services, the county boards of commissioners, and the Senate
29 Appropriations Committee on Health and Human Services and the
30 House of Representatives Appropriations Subcommittee on Health and
31 Human Services on the performance of counties in achieving Work
32 First Program expectations;~~
33 (12) Report to the Senate Appropriations Committee on Health and Human
34 Services and the House of Representatives Appropriations
35 Subcommittee on Health and Human Services the counties which have
36 requested Electing status; provide copies of the proposed Electing
37 County Plans to [C]ommission and the members of the Senate
38 Appropriations Committee on Health and Human Services and the
39 House of Representatives Appropriations Subcommittee on Health and
40 Human Services Services, if requested; and make recommendations to
41 the Senate Appropriations Committee on Health and Human Services
42 and the House of Representatives Appropriations Subcommittee on
43 Health and Human Services on which of the proposed Electing County
44 Plans ensure compliance with federal and State laws, rules, and
45 regulations and are consistent with the overall purposes and goals for
46 the Work First Program; and
47 (13) Make recommendations to the General Assembly for approval of
48 counties to become Electing Counties which represent, in aggregate,
49 no more than fifteen and one-half percent (15.5%) of the total Work
50 First caseload at September 1 of each year and, for each county
51 submitting a plan, the reasons individual counties were or were not
52 recommended.
53 (14) Review the county Work First Program of each electing county and
54 recommend whether the county should continue to be designated an
55 electing county or whether it should be redesignated as a standard

1 county. In conducting its review and making its recommendation, the
 2 Department shall:

- 3 a. Examine and consider the results of the Department's
 4 monitoring and evaluation of the impact of the electing county's
 5 Work First Program as required under subdivision (9) of this
 6 section;
- 7 b. Determine whether the electing county's Work First Program's
 8 unique design requires implementation by an electing county or
 9 whether the Work First Program could be implemented by a
 10 county designated as a standard county;
- 11 c. Determine whether the electing county's Work First Program
 12 and policies are unique and innovative in meeting the purpose
 13 of the Work First Program as stated under G.S. 108A-27, and
 14 State and federal laws, rules, and regulations, as compared to
 15 other standard and electing county Work First programs.

16 The Department shall make its recommendation and the reasons
 17 therefor to the Senate Appropriations Committee on Health and
 18 Human Services and the House of Representatives Appropriations
 19 Subcommittee on Health and Human Services not later than three
 20 months prior to submitting the State Plan to the Commission for
 21 review as required under G.S. 108A-27.9(a)."
 22

23 Requested by: Senator Holloman

24 **SOCIAL SERVICES COMMISSION RULES ON RATE-SETTING FOR ADULT**
 25 **DAY CENTERS AND ADULT DAY HEALTH CENTERS**

26 **SECTION 10.58.** The Social Services Commission shall consider adopting
 27 rules increasing the rates for adult day centers and adult day health centers. Any rate
 28 increase adopted by the Social Services Commission for adult day centers and adult day
 29 health centers shall be implemented within existing funds.
 30

31 **PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**
 32

33 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Rand

34 **GRASSROOTS SCIENCE PROGRAM**

35 **SECTION 11.1.(a)** Of the funds appropriated in this act to the Department
 36 of Environment and Natural Resources for the Grassroots Science Program, the sum of
 37 two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760)
 38 for fiscal year 2003-2004 and the sum of two million five hundred fifty-one thousand
 39 seven hundred sixty dollars (\$2,551,760) for fiscal year 2004-2005 are allocated as
 40 grants-in-aid for each fiscal year as follows:
 41

	2003-2004	2004-2005
42		
43		
44	\$56,504	\$56,504
45	\$181,711	\$181,711
46	\$132,557	\$132,557
47	\$66,390	\$66,390
48	\$608,466	\$608,466
49		
50	\$55,721	\$55,721
51		
52		
53	\$119,141	\$119,141
54	\$84,328	\$84,328
55	\$56,433	\$56,433

1	Museum of Coastal Carolina	\$68,775	\$68,775
2	Natural Science Center of Greensboro	\$179,713	\$179,713
3	North Carolina Museum of Life		
4	and Science	\$378,895	\$378,895
5	Rocky Mount Children's Museum	\$72,177	\$72,177
6	Schiele Museum of Natural History	\$229,403	\$229,403
7	Sci Works Science Center and		
8	Environmental Park of Forsyth County	\$144,870	\$144,870
9	Western North Carolina Nature Center	\$116,675	\$116,675
10			
11	Total	\$2,551,760	\$2,551,760

12 **SECTION 11.1.(b)** Of the funds appropriated in this act to the Department
13 of Environment and Natural Resources for the Grassroots Science Program, the sum of
14 two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year is allocated
15 as initial grants-in-aid of fifty thousand dollars (\$50,000) to each of the following
16 unfunded members of the Grassroots collaborative:

- 17 (1) Wilmington Children's Museum, Inc.
- 18 (2) Carolina Raptor Center, Inc.
- 19 (3) Highlands Nature Center
- 20 (4) Fascinate-U Children's Museum
- 21 (5) KidSenses, Inc.

22 **SECTION 11.1.(c)** It is the intent of the General Assembly that the
23 museums receiving initial allocations under subsection (b) of this section shall receive
24 recurring allocations in subsequent fiscal years based on the formula used to calculate
25 the allocations under subsection (a) of this section.

26
27 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

28 **STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND**

29 **SECTION 11.2.** Of the funds appropriated to the Wildlife Resources Fund
30 in this act, the sum of four hundred forty-nine thousand dollars (\$449,000) for the
31 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars
32 (\$449,000) for the 2004-2005 fiscal year shall be used to provide the State share
33 necessary to support the beaver damage control program established in G.S.
34 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in
35 federal funds is available each fiscal year of the biennium to provide the federal share.

36
37 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Holliman

38 **FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL**

39 **SECTION 11.3.(a)** Notwithstanding the provisions of G.S. 143-215.3A, the
40 Department of Environment and Natural Resources may use up to five hundred
41 thousand dollars (\$500,000) for the 2003-2004 fiscal year from the fees collected for
42 water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if
43 both of the following conditions are satisfied:

- 44 (1) The detoxification and remediation of the landfill located in Warren
45 County cannot be completed without these additional funds.
- 46 (2) All other funds, including all contingency funds, available to the
47 Department for the detoxification and remediation of the landfill
48 located in Warren County that contains polychlorinated biphenyl
49 (PCBs) and dioxin/furan contaminated materials have been spent or
50 encumbered.

51 **SECTION 11.3.(b)** It is the intent of the General Assembly that the funds
52 authorized under subsection (a) of this section will be sufficient to complete the
53 detoxification and remediation of this landfill, based on representations made to the
54 General Assembly.

1 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Jenkins

2 **COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE**
3 **TANK FUNDS**

4 **SECTION 11.4.(a)** Section 19 of S.L. 1989-652, Section 67 of S.L.
5 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L.
6 2001-454 are repealed, which has the effect of repealing two million six hundred
7 twenty-five thousand dollars (\$2,625,000) in appropriations from the Commercial
8 Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of
9 Environment and Natural Resources and one million two hundred ninety-five thousand
10 dollars (\$1,295,000) in appropriations from the Noncommercial Leaking Petroleum
11 Underground Storage Tank Cleanup Fund to the Department of Environment and
12 Natural Resources.

13 **SECTION 11.4.(b)** There is appropriated from the Commercial Leaking
14 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment
15 and Natural Resources the sum of two million six hundred twenty-five thousand dollars
16 (\$2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred
17 twenty-five thousand dollars (\$2,625,000) for the 2004-2005 fiscal year to administer
18 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter
19 143 of the General Statutes.

20 **SECTION 11.4.(c)** It is the intent of the General Assembly that the funds
21 under subsection (b) of this section are recurring funds.

22 **SECTION 11.4.(d)** There is appropriated from the Noncommercial Leaking
23 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment
24 and Natural Resources the sum of one million two hundred ninety-five thousand dollars
25 (\$1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred
26 ninety-five thousand dollars (\$1,295,000) for the 2004-2005 fiscal year to administer
27 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter
28 143 of the General Statutes.

29 **SECTION 11.4.(e)** It is the intent of the General Assembly that the funds
30 under subsection (c) of this section are recurring funds.

31 **SECTION 11.4.(f)** The Office of State Budget and Management shall certify
32 the appropriations under subsections (b) and subsection (d) of this section in the budget
33 codes for the Commercial and Noncommercial Leaking Petroleum Underground
34 Storage Tank Cleanup Funds and in the General Fund budget code for the Department
35 of Environment and Natural Resources.

36
37 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

38 **EXPRESS REVIEW PILOT PROGRAM**

39 **SECTION 11.4A.(a)** The Department of Environment and Natural
40 Resources may develop the Express Review Pilot Program, a pilot program to provide
41 express permit and certification reviews. Participation in the Express Review Pilot
42 Program is voluntary, and the program is to become supported by the fees determined
43 pursuant to subsection (b) of this section. The Department of Environment and Natural
44 Resources shall determine the project applications to review under the Express Review
45 Pilot Program from those who request to participate in the Pilot Program. The Express
46 Review Pilot Program may be applied to any one or all of the permits, approvals, or
47 certifications in the following programs: the erosion and sedimentation control program,
48 the coastal management program, and the water quality programs, including water
49 quality certifications and stormwater management. The Express Review Pilot Program
50 shall focus on the following permits or certifications:

- 51 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
52 General Statutes.
- 53 (2) Stream origination certifications under Article 21 of Chapter 143 of
54 the General Statutes.

- 1 (3) Water quality certification under Article 21 of Chapter 143 of the
2 General Statutes.
3 (4) Erosion and sedimentation control permits under Article 4 of Chapter
4 113A of the General Statutes.
5 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
6 Article 7 of Chapter 113A of the General Statutes.

7 **SECTION 11.4A.(b)** The Department of Environment and Natural
8 Resources may establish up to eight positions to administer the Express Review Pilot
9 Program and may determine the fees for express application review under the Pilot
10 Program. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be
11 charged under subsection (a) of this section for the express review of a project
12 application requiring all of the permits under subdivisions (1) through (5) of subsection
13 (a) of this section shall not exceed five thousand five hundred dollars (\$5,500).
14 Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged
15 for the express review of a project application requiring all of the permits under
16 subdivisions (1) through (4) of subsection (a) of this section shall not exceed four
17 thousand five hundred dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the
18 maximum permit application fee charged for the express review of a project application
19 for any other combination of permits under subdivisions (1) through (5) of subsection
20 (a) of this section shall not exceed four thousand dollars (\$4,000). Express review of a
21 project application involving additional permits or certifications issued by the
22 Department of Environment and Natural Resources other than those under subdivisions
23 (1) through (5) of subsection (a) of this section may be allowed by the Department, and,
24 notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the
25 maximum permit application fee charged for the express review of a project application
26 shall not exceed four thousand dollars (\$4,000), plus one hundred fifty percent (150%)
27 of the fee that would otherwise apply by statute or rule for that particular permit or
28 certification. Additional fees, not to exceed fifty percent (50%) of the original permit
29 application fee under this section, may be charged for subsequent reviews due to the
30 insufficiency of the permit applications. The Department of Environment and Natural
31 Resources may establish the procedure by which the amount of the fees under this
32 subsection is determined, and the fees and procedures are not rules under G.S.
33 150B-2(8a) for the Express Review Pilot Program under this section.

34 **SECTION 11.4A.(c)** The funds appropriated to the Department of
35 Environment and Natural Resources in this act for the 2003-2004 fiscal year shall be
36 used for the costs of implementing the Express Review Pilot Program under this section
37 during the 2003-2004 fiscal year.

38 **SECTION 11.4A.(d)** The Express Review Fund is created as a special
39 nonreverting fund. The Express Review Fund shall be used for the costs of
40 implementing the Express Review Pilot Program under this section. All fees collected
41 under this section shall be credited to the Express Review Fund. If the Express Review
42 Pilot Program is abolished, the funds in the Express Review Fund shall be credited to
43 the General Fund.

44 **SECTION 11.4A.(e)** No later than May 1, 2004, the Department of
45 Environment and Natural Resources shall report to the General Assembly its findings on
46 the success of the Express Review Pilot Program and whether it recommends that the
47 Pilot Program be continued or expanded.

48
49 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Albertson
50 **COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS**

51 **SECTION 11.6.** G.S. 143-215.74(b) reads as rewritten:

52 "(b) The program shall be subject to the following requirements and limitations:

- 53 (1) The purpose of the program shall be to reduce the input of agricultural
54 nonpoint source pollution into the water courses of the State.

- 1 (2) The program shall initially include the present 16 nutrient sensitive
2 watershed counties and 17 additional counties.
- 3 (3) Subject to subdivision (7) of this subsection, priority designations for
4 inclusions in the program shall be under the authority of the Soil and
5 Water Conservation Commission. The Soil and Water Conservation
6 Commission shall retain the authority to allocate the cost share funds.
- 7 (4) Areas shall be included in the program as the funds are appropriated
8 and the technical assistance becomes available from the local Soil and
9 Water Conservation District.
- 10 (5) Funding may be provided to assist practices including conservation
11 tillage, diversions, filter strips, field borders, critical area plantings,
12 sedimentation control structures, sod-based rotations, grassed
13 waterways, strip-cropping, terraces, cropland conversion to permanent
14 vegetation, grade control structures, water control structures, closure of
15 lagoons, emergency spillways, riparian buffers or equivalent controls,
16 odor control best management practices, insect control best
17 management practices, and animal waste management systems and
18 application. Funding for animal waste management shall be allocated
19 for practices in river basins such that the funds will have the greatest
20 impact in improving water quality.
- 21 (6) Except as provided in subdivision (8) and subdivision (9) of this
22 subsection, State funding shall be limited to seventy-five percent
23 (75%) of the average cost for each practice with the assisted farmer
24 providing twenty-five percent (25%) of the cost, which may include
25 in-kind support of the practice, with a maximum of seventy-five
26 thousand dollars (\$75,000) per year to each applicant.
- 27 (7) Priority designation for inclusion in the program for State funding
28 shall be given to projects that improve water quality. To be eligible for
29 cost share funds under this subdivision, a project shall be evaluated
30 before funding is awarded and after the project is completed to
31 determine the impact on water quality.
- 32 (8) For practices that are eligible for funding from the federal
33 Conservation Reserve Enhancement Program, State funding from the
34 program shall be limited to seventy-five percent (75%) of the average
35 cost of each practice, with the remainder paid from funding from the
36 Conservation Reserve Enhancement Program, other available federal
37 funds, other State funds, or the assisted farmer, whose contribution
38 may include in-kind support of the practice. This subdivision is subject
39 to subdivision (9) of this subsection.
- 40 (9) When the applicant is either a limited-resource farmer or a beginning
41 farmer, State funding shall be limited to ninety percent (90%) of the
42 average cost for each practice with the assisted farmer providing ten
43 percent (10%) of the cost, which may include in-kind support of the
44 practice, with a maximum of one hundred thousand dollars (\$100,000)
45 per year to each applicant. The following definitions apply in this
46 subdivision:
- 47 a. Beginning farmer. – A farmer who has not operated a farm or
48 who has operated a farm for not more than 10 years and who
49 will materially and substantially participate in the operation of
50 the farm.
- 51 b. Limited-resource farmer. – A farmer with direct and indirect
52 gross farm sales that do not exceed one hundred thousand
53 dollars (\$100,000).
- 54 c. Materially and substantially participate. –

- 1 1. In the case of an individual, for the individual, including
2 members of the immediate family of the individual, to
3 provide substantial day-to-day labor and management of
4 the farm, consistent with the practices in the county in
5 which the farm is located.
- 6 2. In the case of an entity, for all members of the entity, to
7 participate in the operation of the farm, with some
8 members providing management and some members
9 providing labor and management necessary for day-to-
10 day activities such that if the members did not provide
11 the management and labor, the operation of the farm
12 would be seriously impaired."

13
14 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

15 **CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION**

16 **SECTION 11.8.** Notwithstanding G.S. 143-15.3B(a) for the 2003-2005
17 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for
18 the 2003-2004 fiscal year is only one hundred million dollars (\$100,000,000) as
19 provided by this act and is only one hundred million dollars (\$100,000,000) for the
20 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the
21 Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

22
23 Requested by: Senators Garrou, Dalton, Hagan, Albertson, Weinstein

24 **CLEAN WATER MANAGEMENT TRUST FUND MAY FUND FARMLAND**
25 **PRESERVATION PROJECTS**

26 **SECTION 11.8A.** G.S. 113-145.3(c) is amended by adding a new
27 subdivision to read:

28 "(2a) To match federal, State, local, and private farmland preservation and
29 forestland preservation funds and to acquire permanent conservation
30 easements on working farms and forests."

31
32 **PART XII. DEPARTMENT OF COMMERCE**

33
34 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

35 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

36 **SECTION 12.1.(a)** Of the funds appropriated in this act to the Department
37 of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred
38 twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2003-2004
39 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy
40 dollars (\$127,870) for the 2004-2005 fiscal year may be expended by the North
41 Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and
42 capital improvements in accordance with Article 23C of Chapter 113 of the General
43 Statutes, in addition to funds available to the Authority for these purposes.

44 **SECTION 12.1.(b)** Funds appropriated to the Department of Commerce for
45 the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and
46 unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30,
47 2003, but shall remain available to the Department for legal costs associated with the
48 Project. This section becomes effective June 30, 2003.

49
50 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

51 **COUNCIL OF GOVERNMENT FUNDS**

52 **SECTION 12.2.(a)** Of the funds appropriated in this act to the Department
53 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
54 for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty
55 dollars (\$832,150) for the 2004-2005 fiscal year shall only be used as provided by this

1 section. Each regional council of government or lead regional organization is allocated
2 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2003-2004 and
3 the 2004-2005 fiscal years.

4 **SECTION 12.2.(b)** A regional council of government may use funds
5 appropriated by this section only to assist local governments in grant applications,
6 economic development, community development, support of local industrial
7 development activities, and other activities as deemed appropriate by the member
8 governments.

9 **SECTION 12.2.(c)** Funds appropriated by this section shall be paid by
10 electronic transfer in two equal installments, the first no later than September 1, 2003,
11 and the second subsequent to acceptable submission of the annual report due to the Joint
12 Legislative Commission on Governmental Operations and the Fiscal Research Division
13 by January 15, 2005, as specified in subdivision (e)(2) of this section.

14 **SECTION 12.2.(d)** Funds appropriated by this section shall not be used for
15 payment of dues or assessments by the member governments and shall not supplant
16 funds appropriated by the member governments.

17 **SECTION 12.2.(e)** Each council of government or lead regional
18 organization shall do the following:

- 19 (1) By January 15, 2004, and more frequently as requested, report to the
20 Joint Legislative Commission on Governmental Operations and the
21 Fiscal Research Division the following information:
 - 22 a. State fiscal year 2002-2003 program activities, objectives, and
23 accomplishments;
 - 24 b. State fiscal year 2002-2003 itemized expenditures and fund
25 sources;
 - 26 c. State fiscal year 2003-2004 planned activities, objectives, and
27 accomplishments, including actual results through December
28 31, 2003; and
 - 29 d. State fiscal year 2003-2004 estimated itemized expenditures
30 and fund sources, including actual expenditures and fund
31 sources through December 31, 2003;
- 32 (2) By January 15, 2005, and more frequently as requested, report to the
33 Joint Legislative Commission on Governmental Operations and the
34 Fiscal Research Division the following information:
 - 35 a. State fiscal year 2003-2004 program activities, objectives, and
36 accomplishments;
 - 37 b. State fiscal year 2003-2004 itemized expenditures and fund
38 sources;
 - 39 c. State fiscal year 2004-2005 planned activities, objectives, and
40 accomplishments, including actual results through December
41 31, 2004; and
 - 42 d. State fiscal year 2004-2005 estimated itemized expenditures
43 and fund sources, including actual expenditures and fund
44 sources through December 31, 2004; and
- 45 (3) Provide to the Fiscal Research Division a copy of the organization's
46 annual audited financial statement within 30 days of issuance of the
47 statement.

48
49 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

50 **TOURISM PROMOTION FUNDS**

51 **SECTION 12.3.** Funds appropriated in this act to the Department of
52 Commerce for tourism promotion grants shall be allocated to counties in an effort to
53 direct funds to counties most in need. Determinations of which counties are most in
54 need shall focus on those with the lowest per capita income, highest unemployment, and
55 slowest population growth, in the following manner:

- 1 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
2 seven thousand five hundred dollars (\$7,500) for each fiscal year,
3 provided these funds are matched on the basis of one non-State dollar
4 for every four State dollars.
- 5 (2) Counties 21 through 50 are each eligible to receive a maximum grant
6 of three thousand five hundred dollars (\$3,500) for two of the next
7 three fiscal years, provided these funds are matched on the basis of one
8 non-State dollar for every three State dollars.
- 9 (3) Counties 51 through 100 are each eligible to receive a maximum grant
10 of three thousand five hundred dollars (\$3,500) for alternating fiscal
11 years, beginning with the 1991-1992 fiscal year, provided these funds
12 are matched on the basis of four non-State dollars for every State
13 dollar.
14

15 Requested by: Senators Weinstein, Clodfelter, Garrou, Dalton, Hagan

16 **ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE**
17 **FUND**

18 **SECTION 12.4.(a)** Funds appropriated to the Department of Commerce for
19 the One North Carolina - Industrial Recruitment Competitive Fund shall be used to
20 continue the Fund. The purpose of the Fund is to provide financial assistance to those
21 businesses or industries deemed by the Governor to be vital to a healthy and growing
22 State economy and that are making significant efforts to establish or expand in North
23 Carolina. It is the policy of the State of North Carolina to stimulate economic activity
24 and to create new jobs for the citizens of the State by encouraging and promoting the
25 growth and expansion of businesses and industries within the State. Accordingly, the
26 Department of Commerce shall allocate one million dollars (\$1,000,000) from the Fund
27 to Johnson & Wales University for the creation of jobs in this State as a credit against
28 any recruitment incentives heretofore extended to Johnson & Wales University by the
29 State, if any there be. Johnson & Wales shall reimburse the Fund if the projected
30 number of jobs are not created.

31 **SECTION 12.4.(b)** Moneys allocated from the One North Carolina -
32 Industrial Recruitment Competitive Fund shall be used for the following purposes:

- 33 (1) Installation or purchase of equipment.
34 (2) Structural repairs, improvements, or renovations of existing buildings
35 to be used for expansion.
36 (3) Construction of or improvements to new or existing water, sewer, gas
37 or electric utility distribution lines, or equipment for existing
38 buildings.
39 (4) Any other purposes specifically provided by an act of the General
40 Assembly.

41 Moneys may also be used for construction of or improvements to new or
42 existing water, sewer, gas or electric utility distribution lines, or equipment to serve new
43 or proposed industrial buildings used for manufacturing and industrial operations. The
44 Governor shall adopt guidelines and procedures for the commitment of moneys from the
45 Fund.
46

47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Queen

48 **WORKER TRAINING TRUST FUND**

49 **SECTION 12.6.(a)** There is appropriated from the Worker Training Trust
50 Fund to the Employment Security Commission of North Carolina the sum of five
51 million dollars (\$5,000,000) for the 2003-2004 fiscal year for the operation of local
52 offices.

53 **SECTION 12.6.(b)** Notwithstanding the provisions of G.S. 96-5(f), there is
54 appropriated from the Worker Training Trust Fund to the following agencies the
55 following sums for the 2003-2004 fiscal year for the following purposes:

- 1 (1) One hundred ninety-three thousand eight hundred seventy-nine dollars
2 (\$193,879) for the 2003-2004 fiscal year to the Employment Security
3 Commission for the State Occupational Information Coordinating
4 Committee to develop and operate an interagency system to track
5 former participants in State education and training programs;
- 6 (2) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the
7 2003-2004 fiscal year to the Employment Security Commission to
8 maintain compliance with Chapter 96 of the General Statutes, which
9 directs the Commission to employ the Common Follow-Up
10 Management Information System to evaluate the effectiveness of the
11 State's job training, education, and placement programs;
- 12 (3) Eight hundred sixty-one thousand six hundred eighty-four dollars
13 (\$861,684) for the 2003-2004 fiscal year to the Department of Labor to
14 continue the Apprenticeship Program; and
- 15 (4) Two hundred forty thousand dollars (\$240,000) for the 2003-2004
16 fiscal year to the Community Colleges System Office for a training
17 program in entrepreneurial skills to be operated by North Carolina
18 REAL Enterprises.

19 **SECTION 12.6.(c)** The agencies listed in subsections (a) and (b) of this
20 section shall, by January 15, 2004, and more frequently as requested, for the programs
21 for which funds are appropriated in this section, report to the Joint Legislative
22 Commission on Governmental Operations and the Fiscal Research Division the
23 following information:

- 24 (1) State fiscal year 2003-2004 program activities, objectives, and
25 accomplishments;
- 26 (2) State fiscal year 2003-2004 itemized expenditures and fund sources;
- 27 (3) State fiscal year 2004-2005 planned activities, objectives, and
28 accomplishments including actual results through December 31, 2003;
29 and
- 30 (4) State fiscal year 2004-2005 estimated itemized expenditures and fund
31 sources including actual expenditures and fund sources through
32 December 31, 2003.

33 **SECTION 12.6.(d)** Notwithstanding the provisions of G.S. 96-5(f), funds
34 appropriated for 2002-2003 from the Worker Training Trust Fund to the Community
35 Colleges System Office for both the Focused Industrial Training Program and the
36 Training Initiatives shall not revert, but shall remain available to the System Office for
37 the support of each program in fiscal year 2003-2004.

38
39 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

40 **FILM INDUSTRY DEVELOPMENT ACCOUNT**

41 **SECTION 12.6A.(a)** G.S. 143B-434.3 is repealed.

42 **SECTION 12.6A.(b)** Part 2 of Article 10 of Chapter 143B is amended by
43 adding the following new section to read:

44 **"§ 143B-434.4. Film Industry Development Account.**

45 (a) Legislative Findings and Purpose. – The General Assembly finds that:

- 46 (1) It is the policy of the State of North Carolina to stimulate economic
47 activity and to create new jobs for the citizens of the State by
48 encouraging and promoting the growth and expansion of businesses
49 and industries within the State.
- 50 (2) The North Carolina film production industry barely existed in the late
51 1970s.
- 52 (3) Since that time, the North Carolina film production industry has grown
53 to employ thousands of North Carolinians and to support seven studio
54 complexes, hundreds of production service and support companies,
55 and a substantial permanent resident crew base of film professionals.

1 all of which contribute to the economy of the State and are a source of
2 tax revenue for the State and local governments.

3 (4) North Carolina, through its film industry, has hosted over 600
4 productions over the past 20 years, is regarded as the country's third
5 largest film-making State behind California and New York, and has
6 hosted productions in at least 75 out of our 100 counties.

7 (5) Because of the nature of the national film production industry, the
8 success and economic viability of North Carolina's film production
9 industry depend in many respects on the State's ability to attract
10 productions originating from other states such as California and New
11 York to undertake production activity in North Carolina utilizing the
12 State's existing film industry infrastructure.

13 (6) The national film production industry is a highly creative industry in
14 which decisions to film productions in North Carolina are typically
15 made outside of the State and are frequently based upon factors such
16 as cost of production.

17 (7) However, current trends in the industry, including trends in foreign
18 countries such as Canada, to develop new and creative means to attract
19 and cut production costs for the type of productions that, in the past,
20 have sustained North Carolina's film industry, threaten the viability of
21 the State's investments in its film industry and film production
22 infrastructure.

23 (8) The economic condition of the State is not static, and recent changes in
24 the State's economic condition have created a level of economic
25 distress that requires a reevaluation of certain existing State programs,
26 and the enactment and funding of programs such as the Film Industry
27 Development Account are designed to stimulate new economic
28 activity and to create new jobs and opportunities for employment
29 within the State.

30 (9) The enactment, funding, and administration of this program is
31 necessary to stimulate the economy, facilitate economic recovery,
32 create new jobs in North Carolina, and help sustain and preserve the
33 State's investments in the film production industry, and will promote
34 the general welfare and confer, as its primary purpose and effect,
35 benefits on citizens throughout the State through the creation of new
36 jobs and opportunities for employment, an enlargement of the overall
37 tax base, an expansion and diversification of the State's industrial base,
38 and an increase in revenue to the State and its political subdivisions, in
39 accord with the policies declared in G.S. 143B-428.

40 (10) The purpose of the Film Industry Development Account is to stimulate
41 economic activity and to create jobs and employment opportunities
42 within the State.

43 (b) Creation of Account. – There is created in the Department of Commerce,
44 Division of Tourism, Film, and Sports Development, the Film Industry Development
45 Account to provide annual grants as incentives to production companies that engage in
46 production activities in this State. The Division of Tourism, Film, and Sports
47 Development shall administer this program in accordance with the following provisions:

48 (1) To be eligible for a grant, a production company must engage in
49 production activities in this State with expenditures in this State of at
50 least one million dollars (\$1,000,000). A grant may not be used for
51 political or issue advertising.

52 (2) A grant may not exceed fifteen percent (15%) of the amount the
53 production company spends for goods and services in this State during
54 the calendar year.

1 (3) A grant may not exceed two hundred thousand dollars (\$200,000) per
2 production.

3 (4) Grants shall be awarded to productions that substantially utilize North
4 Carolina's film industry infrastructure and workforce, that stimulate
5 economic activity within the State, and that create employment
6 opportunities within the State.

7 (c) Production Company Defined. – As used in this section, the term "production
8 company" has the meaning provided in G.S. 105-164.3.

9 (d) Limitation on Eligibility. – No production company shall be eligible for a
10 grant under this section if an original motion picture, television, or radio image for
11 theatrical, commercial, advertising, or educational purposes made by that company
12 contains material that is considered obscene, as defined by G.S. 14-190.1(b).

13 (e) Reports. – The Department of Commerce shall report annually to the General
14 Assembly concerning the applications made to the account, the payments made from the
15 account, and the effect of the payments on job creation in the State. The Department of
16 Commerce shall also report quarterly to the Joint Legislative Commission on
17 Governmental Operations and the Fiscal Research Division on the use of the moneys in
18 the account, including information regarding to whom payments were made and in what
19 amounts."

20 **SECTION 12.6A.(c)** This section is effective on and after August 2, 2000.

21
22 Requested by: Senators Garrou, Dalton, Hagan

23 **STUDY WORKFORCE DEVELOPMENT PROGRAMS**

24 **SECTION 12.6B.** The Department of Commerce and the Employment
25 Security Commission shall report not later than January 1, 2004, to the House of
26 Representatives and Senate Appropriations Committees on proposals to improve the
27 efficiency and effectiveness of State workforce development programs. The
28 Department and Commission may consult with other State agencies and departments in
29 the formulation of the proposals. The proposals may include, but shall not be limited to,
30 the following:

- 31 (1) Changes in the membership of the Employment Security Commission
32 to include other State officials with significant responsibility for the
33 provision of workforce development services;
- 34 (2) Co-location of workforce development officials across agencies and
35 departments to improve efficiency and coordination of service
36 provision;
- 37 (3) Organizational structure changes to improve efficiency, planning,
38 accountability, and coordination of service provision. The approval of
39 the Secretary or the equivalent of any affected agency shall be required
40 as part of any organizational structure change proposal; and
- 41 (4) Other relevant recommendations that would result in the improvement
42 of efficiency and effectiveness of State workforce development
43 programs.

44
45 Requested by: Senators Reeves, Garrou, Dalton, Hagan

46 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

47 **SECTION 12.6C.(a)** The North Carolina Industrial Commission may retain
48 up to five hundred thousand dollars (\$500,000) in the fiscal year 2003-2004 and five
49 hundred thousand dollars (\$500,000) in the fiscal year 2004-2005 in additional fees
50 charged to parties for the filing of compromise settlements to be used to replace existing
51 computer hardware and software used for the operations of the Commission. These
52 funds may also be used to prepare any assessment of hardware and software needs prior
53 to purchase. Any fees retained under this section must be in excess of the current
54 two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromise

1 settlement. All plans and purchases by the Commission utilizing these funds are subject
2 to project certification by the Information Resources Management Commission.

3 **SECTION 12.6C.(b)** The Commission may retain additional fees as
4 authorized in this section only in the 2003-2005 fiscal biennium and shall not retain any
5 additional fees after the 2003-2005 fiscal biennium.

6
7 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

8 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

9 **SECTION 12.7.(a)** Funds appropriated in this act to the Department of
10 Commerce for regional economic development commissions shall be allocated to the
11 following commissions in accordance with subsection (b) of this section: Western North
12 Carolina Regional Economic Development Commission, Research Triangle Regional
13 Commission, Southeastern North Carolina Regional Economic Development
14 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
15 Economic Development Commission, Global TransPark Development Commission,
16 and Carolinas Partnership, Inc.

17 **SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this
18 section shall be allocated to each regional economic development commission as
19 follows:

- 20 (1) First, the Department shall establish each commission's allocation by
21 determining the sum of allocations to each county that is a member of
22 that commission. Each county's allocation shall be determined by
23 dividing the county's enterprise factor by the sum of the enterprise
24 factors for eligible counties and multiplying the resulting percentage
25 by the amount of the appropriation. As used in this subdivision, the
26 term "enterprise factor" means a county's enterprise factor as
27 calculated under G.S. 105-129.3; seven million five hundred thousand
28 dollars (\$7,500,000) appropriated to the Global TransPark
29 Development Zone in Section 6 of Chapter 561 of the 1993 Session
30 Laws; and
31 (2) Next, the Department shall subtract from funds allocated to the Global
32 TransPark Development Zone the sum of one hundred seventy-one
33 thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal
34 year, which sum represents the interest earnings in each fiscal year on
35 the estimated balance of seven million five hundred thousand dollars
36 (\$7,500,000) appropriated to the Global TransPark Development Zone
37 in Section 6 of Chapter 561 of the 1993 Session Laws; and
38 (3) Next, the Department shall redistribute the sum of one hundred
39 seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in
40 each fiscal year to the seven regional economic development
41 commissions named in subsection (a) of this section. Each
42 commission's share of this redistribution shall be determined according
43 to the enterprise factor formula set out in subdivision (1) of this
44 subsection. This redistribution shall be in addition to each
45 commission's allocation determined under subdivision (1) of this
46 subsection.

47
48 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

49 **REGIONAL COMMISSION REPORTS**

50 **SECTION 12.7A.** Each regional economic development commission
51 receiving a grant-in-aid from the Department of Commerce shall:

- 52 (1) By January 15, 2004, and more frequently as requested, report to the
53 Joint Legislative Commission on Governmental Operations, the Fiscal
54 Research Division, and the Department of Commerce the following
55 information:

- 1 a. State fiscal year 2002-2003 program activities, objectives, and
2 accomplishments;
- 3 b. State fiscal year 2002-2003 itemized expenditures and fund
4 sources;
- 5 c. State fiscal year 2003-2004 planned activities, objectives, and
6 accomplishments as specified in sub-sub-subdivisions 1.
7 through 8. of sub-subdivision (2)a. of this section including
8 actual results through December 31, 2003;
- 9 d. State fiscal year 2003-2004 estimated itemized expenditures
10 and fund sources including actual expenditures and fund
11 sources through December 31, 2003.
- 12 (2) Report by January 15, 2004, on the first and second quarters of the
13 2003-2004 fiscal year, and by July 15, 2004, on the third and fourth
14 quarters of the 2003-2004 fiscal year, regarding the following:
- 15 a. Program activities, objectives, and accomplishments for its
16 region, to include:
- 17 1. Specific businesses and/or industries that have been
18 recruited.
- 19 2. Businesses and/or industries that have located as a result
20 of recruitment efforts and number of new jobs created as
21 a result of that location decision.
- 22 3. Existing businesses and/or industries that have expanded
23 as a result of assistance and number of new jobs created
24 as a result of that expansion.
- 25 4. Existing businesses and/or industries that have remained
26 as a result of retention efforts and number of jobs saved
27 as a result of that retention.
- 28 5. For sub-sub-subdivisions 1. through 4. of this
29 sub-subdivision, each Commission shall describe its role
30 in the activities and identify the relative contributions of
31 the Commission and the Department of Commerce to the
32 activities.
- 33 6. Number and description of marketing outreach events,
34 including trade shows, recruitment missions, and related
35 activities.
- 36 7. Initiatives undertaken to establish certified sites and shell
37 buildings.
- 38 8. Number of referrals or leads handled that were generated
39 by the Department of Commerce and number that were
40 generated by the Commission.
- 41 b. Total itemized actual revenues and expenditures, by fund
42 source.
- 43 The report required by this subdivision shall be made to the
44 Department of Commerce, the Joint Legislative Commission on
45 Governmental Operations, and the Fiscal Research Division.
- 46 (3) Report by January 15, 2005, to the Joint Legislative Commission on
47 Governmental Operations, the Fiscal Research Division, and the
48 Department of Commerce on the following:
- 49 a. State fiscal year 2003-2004 program activities, objectives, and
50 accomplishments.
- 51 b. State fiscal year 2003-2004 itemized expenditures, including
52 salary and benefits for all employees regardless of funding
53 sources, and fund sources.
- 54 (4) Report by January 15, 2005, to the Department of Commerce on the
55 number and listing of available sites and buildings within the region.

- 1 (5) Provide to the Fiscal Research Division and the Department of
2 Commerce a copy of its annual audited financial statement within 30
3 days of issuance of the statement.
4

5 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

6 **NONPROFIT REPORTING REQUIREMENTS**

7 **SECTION 12.9.(a)** The N.C. Institute for Minority Economic Development,
8 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
9 Carolina Community Development Initiative, Inc., North Carolina Association of
10 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
11 Partnership for the Sounds, Inc., shall do the following:

- 12 (1) By January 15, 2004, and more frequently as requested, report to the
13 Joint Legislative Commission on Governmental Operations and the
14 Fiscal Research Division the following information:
15 a. State fiscal year 2002-2003 program activities, objectives, and
16 accomplishments;
17 b. State fiscal year 2002-2003 itemized expenditures and fund
18 sources;
19 c. State fiscal year 2003-2004 planned activities, objectives, and
20 accomplishments including actual results through December 31,
21 2003; and
22 d. State fiscal year 2003-2004 estimated itemized expenditures
23 and fund sources including actual expenditures and fund
24 sources through December 31, 2003;
25 (2) By January 15, 2005, and more frequently as requested, report to the
26 Joint Legislative Commission on Governmental Operations and the
27 Fiscal Research Division the following information:
28 a. State fiscal year 2003-2004 program activities, objectives, and
29 accomplishments;
30 b. State fiscal year 2003-2004 itemized expenditures and fund
31 sources;
32 c. State fiscal year 2004-2005 planned activities, objectives, and
33 accomplishments including actual results through December 31,
34 2004; and
35 d. State fiscal year 2004-2005 estimated itemized expenditures
36 and fund sources including actual expenditures and fund
37 sources through December 31, 2004; and
38 (3) Provide to the Fiscal Research Division a copy of the organization's
39 annual audited financial statement within 30 days of issuance of the
40 statement.

41 **SECTION 12.9.(b)** No funds appropriated under this act shall be released to
42 a nonprofit organization listed in subsection (a) of this section until the organization has
43 satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall
44 not be released to any nonprofit organization that does not satisfy the reporting
45 requirements by January 15, 2004, or January 15, 2005.
46

47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

48 **BIOTECHNOLOGY CENTER**

49 **SECTION 12.10.(a)** The North Carolina Biotechnology Center shall
50 recapture funds spent in support of successful research and development efforts in the
51 for-profit private sector.

52 **SECTION 12.10.(b)** The North Carolina Biotechnology Center shall
53 provide funding for biotechnology, biomedical, and related bioscience applications
54 under its Business and Science Technology Programs.

55 **SECTION 12.10.(c)** The North Carolina Biotechnology Center shall:

- 1 (1) By January 15, 2004, and more frequently as requested, report to the
2 Joint Legislative Commission on Governmental Operations and the
3 Fiscal Research Division the following information:
4 a. State fiscal year 2002-2003 program activities, objectives, and
5 accomplishments;
6 b. State fiscal year 2002-2003 itemized expenditures and fund
7 sources;
8 c. State fiscal year 2003-2004 planned activities, objectives, and
9 accomplishments including actual results through December 31,
10 2003; and
11 d. State fiscal year 2003-2004 estimated itemized expenditures
12 and fund sources including actual expenditures and fund
13 sources through December 31, 2003;
- 14 (2) By January 15, 2005, and more frequently as requested, report to the
15 Joint Legislative Commission on Governmental Operations and the
16 Fiscal Research Division the following information:
17 a. State fiscal year 2003-2004 program activities, objectives, and
18 accomplishments;
19 b. State fiscal year 2003-2004 itemized expenditures and fund
20 sources;
21 c. State fiscal year 2004-2005 planned activities, objectives, and
22 accomplishments including actual results through December 31,
23 2004; and
24 d. State fiscal year 2004-2005 estimated itemized expenditures
25 and fund sources including actual expenditures and fund
26 sources through December 31, 2004; and
- 27 (3) Provide to the Fiscal Research Division a copy of the organization's
28 annual audited financial statement within 30 days of issuance of the
29 statement.

30 **SECTION 12.10.(d)** The North Carolina Biotechnology Center shall
31 provide a report containing detailed budget, personnel, and salary information to the
32 Office of State Budget and Management and to the Fiscal Research Division in the same
33 manner as State departments and agencies in preparation for biennium budget requests.
34

35 Requested by: Senators Garrou, Dalton, Hagan
36 **PIEDMONT TRIAD RESEARCH PARK**

37 **SECTION 12.10A.** Of the funds appropriated in this act to the North
38 Carolina Biotechnology Center, the sum of two hundred fifty thousand dollars
39 (\$250,000) for the fiscal year 2003-2004 shall be transferred to !dealliance for the
40 expansion of the Piedmont Triad Research Park.
41

42 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
43 **RURAL ECONOMIC DEVELOPMENT CENTER**

44 **SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural
45 Economic Development Center, Inc., the sum of one million seven hundred fourteen
46 thousand six hundred seventy-seven dollars (\$1,714,677) for the 2003-2004 fiscal year
47 and the sum of one million seven hundred fourteen thousand six hundred seventy-seven
48 dollars (\$1,714,677) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
50		
51		
52		
53		
54		
55		
Research and Demonstration Grants	\$370,000	\$370,000
Technical Assistance and Center		
Administration of Research		
and Demonstration Grants	444,399	444,399
Center Administration, Oversight,		

1	and Other Programs	437,278	437,278
2	Administration of Clean Water/ 3 Natural Gas Critical Needs		
4	Bond Act of 1998	199,722	199,722
5	Additional Administration of Supplemental 6 Funding Program	138,278	138,278
7	Administration of Capacity Building 8 Assistance Program (1998 Bond Act)	125,000	125,000.

9 **SECTION 12.11.(b)** The Rural Economic Development Center, Inc., shall
10 provide a report containing detailed budget, personnel, and salary information to the
11 Office of State Budget and Management in the same manner as State departments and
12 agencies in preparation for biennium budget requests.

13 **SECTION 12.11.(c)** For purposes of this section, the term "community
14 development corporation" means a nonprofit corporation:

- 15 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 16 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
17 Code of 1986;
- 18 (3) Whose primary mission is to develop and improve low-income
19 communities and neighborhoods through economic and related
20 development;
- 21 (4) Whose activities and decisions are initiated, managed, and controlled
22 by the constituents of those local communities; and
- 23 (5) Whose primary function is to act as deal-maker and packager of
24 projects and activities that will increase their constituencies'
25 opportunities to become owners, managers, and producers of small
26 businesses, affordable housing, and jobs designed to produce positive
27 cash flow and curb blight in the targeted community.

28 **SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural
29 Economic Development Center, Inc., the sum of two million four hundred fifteen
30 thousand nine hundred ten dollars (\$2,415,910) for the 2003-2004 fiscal year and the
31 sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910)
32 for the 2004-2005 fiscal year shall be allocated as follows:

- 33 (1) \$1,047,410 in each fiscal year for community development grants to
34 support development projects and activities within the State's minority
35 communities. Any community development corporation as defined in
36 this section is eligible to apply for funds. The Rural Economic
37 Development Center, Inc., shall establish performance-based criteria
38 for determining which community development corporation will
39 receive a grant and the grant amount. The Rural Economic
40 Development Center, Inc., shall allocate these funds as follows:
 - 41 a. \$800,000 in each fiscal year for direct grants to the local
42 community development corporations that have previously
43 received State funds for this purpose to support operations and
44 project activities;
 - 45 b. \$197,410 in each fiscal year for direct grants to local
46 community development corporations that have not previously
47 received State funds; and
 - 48 c. \$50,000 in each fiscal year to the Rural Economic Development
49 Center, Inc., to be used to cover expenses in administering this
50 section.
- 51 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
52 support the loan fund and operations of the Program; and
- 53 (3) \$983,000 in each fiscal year shall be used for a program to provide
54 supplemental funding for matching requirements for projects and

1 activities authorized under this subsection. The Center shall allocate
2 these funds as follows:

- 3 a. \$775,000 in each fiscal year to make grants to local
4 governments and nonprofit corporations to provide funds
5 necessary to match federal grants or other grants for:
6 1. Necessary economic development projects and activities
7 in economically distressed areas;
8 2. Necessary water and sewer projects and activities in
9 economically distressed communities to address health
10 or environmental quality problems except that funds
11 shall not be expended for the repair or replacement of
12 low-pressure pipe wastewater systems. If a grant is
13 awarded under this sub-subdivision, then the grant shall
14 be matched on a dollar-for-dollar basis in the amount of
15 the grant awarded; or
16 3. Projects that demonstrate alternative water and waste
17 management processes for local governments. Special
18 consideration should be given to cost-effectiveness,
19 efficacy, management efficiency, and the ability of the
20 demonstration project to be replicated.
- 21 b. \$208,000 in each fiscal year to make grants to local
22 governments and nonprofit corporations to provide funds
23 necessary to match federal grants or other grants related to
24 water, sewer, or business development projects.
- 25 (4) \$190,500 in each fiscal year for the Agricultural Advancement
26 Consortium. These funds shall be placed in a reserve and allocated as
27 follows:
28 a. \$75,000 in each fiscal year for operating expenses associated
29 with the Consortium; and
30 b. \$115,500 in each fiscal year for research initiatives funded by
31 the Consortium.

32 The Consortium shall facilitate discussions among interested parties
33 and shall develop recommendations to improve the State's economic
34 development through farming and agricultural interests.

35 The grant recipients in this subsection shall be selected on the basis of need.

36 **SECTION 12.11.(e)** The Rural Economic Development Center, Inc., shall:

- 37 (1) By January 15, 2004, and more frequently as requested, report to the
38 Joint Legislative Commission on Governmental Operations and the
39 Fiscal Research Division the following information:
40 a. State fiscal year 2002-2003 program activities, objectives, and
41 accomplishments;
42 b. State fiscal year 2002-2003 itemized expenditures and fund
43 sources;
44 c. State fiscal year 2003-2004 planned activities, objectives, and
45 accomplishments including actual results through December 31,
46 2003; and
47 d. State fiscal year 2003-2004 estimated itemized expenditures
48 and fund sources including actual expenditures and fund
49 sources through December 31, 2003.
- 50 (2) By January 15, 2005, and more frequently as requested, report to the
51 Joint Legislative Commission on Governmental Operations and the
52 Fiscal Research Division the following information:
53 a. State fiscal year 2003-2004 program activities, objectives, and
54 accomplishments;

- 1 b. State fiscal year 2003-2004 itemized expenditures and fund
2 sources;
3 c. State fiscal year 2004-2005 planned activities, objectives, and
4 accomplishments including actual results through December 31,
5 2004; and
6 d. State fiscal year 2004-2005 estimated itemized expenditures
7 and fund sources including actual expenditures and fund
8 sources through December 31, 2004.
9 (3) Provide to the Fiscal Research Division a copy of each grant
10 recipient's annual audited financial statement within 30 days of
11 issuance of the statement.

12 **SECTION 12.11.(f)** No funds appropriated under this act shall be released to
13 a community development corporation, as defined in this act, unless the corporation can
14 demonstrate that there are no outstanding or proposed assessments or other collection
15 actions against the corporation for any State or federal taxes, including related penalties,
16 interest, and fees.
17

18 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

19 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

20 **SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural
21 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
22 dollars (\$361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one
23 thousand dollars (\$361,000) for the 2004-2005 fiscal year shall be allocated as follows:

- 24 (1) \$90,250 in each fiscal year to the Opportunities Industrialization
25 Center of Wilson, Inc., for its ongoing job training programs;
26 (2) \$90,250 in each fiscal year to the Opportunities Industrialization
27 Center, Inc., in Rocky Mount, for its ongoing job training programs;
28 (3) \$90,250 in each fiscal year to the Opportunities Industrialization
29 Centers Kinston and Lenoir County, North Carolina, Inc.; and
30 (4) \$90,250 in each fiscal year to the Opportunities Industrialization
31 Center of Elizabeth City, Inc.

32 **SECTION 12.12.(b)** For each of the Opportunities Industrialization Centers
33 receiving funds pursuant to subsection (a) of this section, the Rural Economic
34 Development Center, Inc., shall:

- 35 (1) By January 15, 2004, and more frequently as requested, report to the
36 Joint Legislative Commission on Governmental Operations and the
37 Fiscal Research Division the following information:
38 a. State fiscal year 2002-2003 program activities, objectives, and
39 accomplishments;
40 b. State fiscal year 2002-2003 itemized expenditures and fund
41 sources;
42 c. State fiscal year 2003-2004 planned activities, objectives, and
43 accomplishments, including actual results through December
44 31, 2003; and
45 d. State fiscal year 2003-2004 estimated itemized expenditures
46 and fund sources, including actual expenditures and fund
47 sources through December 31, 2003.
48 (2) By January 15, 2005, and more frequently as requested, report to the
49 Joint Legislative Commission on Governmental Operations and the
50 Fiscal Research Division the following information:
51 a. State fiscal year 2003-2004 program activities, objectives, and
52 accomplishments;
53 b. State fiscal year 2003-2004 itemized expenditures and fund
54 sources;

1 c. State fiscal year 2004-2005 planned activities, objectives, and
2 accomplishments, including actual results through December
3 31, 2004; and

4 d. State fiscal year 2004-2005 estimated itemized expenditures
5 and fund sources, including actual expenditures and fund
6 sources through December 31, 2004.

7 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor
8 a financial statement in the form and on the schedule prescribed by the
9 State Auditor. The financial statements must be audited in accordance
10 with standards prescribed by the State Auditor to assure that State
11 funds are used for the purposes provided by law.

12 (4) Provide to the Fiscal Research Division a copy of the annual audited
13 financial statement required in subdivision (3) of this subsection within
14 30 days of issuance of the statement.

15 **SECTION 12.12.(c)** No funds appropriated under this act shall be released
16 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)
17 of this section unless the Center can demonstrate that there are no outstanding or
18 proposed assessments or other collection actions against the Center for any State or
19 federal taxes, including related penalties, interest, and fees.

20 21 **PART XIII. JUDICIAL DEPARTMENT**

22
23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

24 **AOC OPERATIONAL EFFICIENCY STUDY**

25 **SECTION 13.1.** The Judicial Department shall report by September 1, 2003,
26 to the Chairs of the Senate and House of Representatives Appropriations Committees
27 and the Chairs of the Senate and House of Representatives Appropriations
28 Subcommittees on Justice and Public Safety on the positions identified in the
29 Administrative Office of the Courts in order to implement operational savings.

30
31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **MANAGEMENT FLEXIBILITY RESERVES**

33 **SECTION 13.1A.** The Judicial Department, the Department of Correction,
34 the Department of Crime Control and Public Safety, the Department of Juvenile Justice
35 and Delinquency Prevention, and the Department of Justice shall report quarterly to the
36 Chairs of the Senate and House of Representatives Appropriations Committees and the
37 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
38 Justice and Public Safety on the implementation of management flexibility reserves
39 authorized for any agency in this act. The departments shall report to the Joint
40 Legislative Commission on Governmental Operations before implementing
41 management flexibility reserves by eliminating positions or abolishing programs.

42
43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **COLLECTION OF WORTHLESS CHECK FUNDS**

45 **SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the
46 Judicial Department may use any balance remaining in the Collection of Worthless
47 Checks Fund on June 30, 2003, for the purchase or repair of office or information
48 technology equipment during the 2003-2004 fiscal year. Prior to using any funds under
49 this section, the Judicial Department shall report to the Joint Legislative Commission on
50 Governmental Operations and the Chairs of the Senate and House of Representatives
51 Appropriations Subcommittees on Justice and Public Safety on the equipment to be
52 purchased or repaired and the reasons for the purchases.

53
54 Requested by: Senators Thomas, Garrou, Dalton, Hagan

55 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

1 **SECTION 13.3.** The Office of Indigent Defense Services shall report to the
2 Chairs of the Senate and House of Representatives Appropriations Committees and the
3 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
4 Justice and Public Safety by March 1 of each year on:

- 5 (1) The volume and cost of cases handled in each district by assigned
6 counsel or public defenders;
- 7 (2) Actions taken by the Office to improve the cost-effectiveness and
8 quality of indigent defense, including the capital case program;
- 9 (3) Plans for changes in rules, standards, or regulations in the upcoming
10 year; and
- 11 (4) Any recommended changes in law or funding procedures that would
12 assist the Office in improving the management of funds expended for
13 indigent defense services.

14
15 Requested by: Senators Thomas, Garrou, Dalton, Hagan

16 **DRUG TREATMENT COURT PROGRAM**

17 **SECTION 13.4.(a)** It is the intent of the General Assembly that, allowing
18 for established local differences in implementation, State Drug Treatment Court funds
19 not be used to fund case manager positions when the services provided by those
20 positions can be reasonably provided by the Treatment Alternatives to Street Crime
21 (TASC) program in the Department of Health and Human Services or by other existing
22 resources. The Drug Treatment Court Program shall identify areas of potential cost
23 savings in the local programs that would result from reducing the number of case
24 manager positions. The Program shall also identify areas in which federal funding might
25 absorb administrative costs.

26 The Drug Treatment Court Program shall report by February 1, 2004, to the
27 Chairs of the Senate and House of Representatives Appropriations Committees and the
28 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
29 Justice and Public Safety on the savings identified.

30 **SECTION 13.4.(b)** Prior to the establishment of any new local drug
31 treatment court programs, the local drug treatment court management committee shall
32 consult with the TASC program as to the availability of case management services in
33 that community.

34
35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 **FEDERAL GRANT FUNDS**

37 **SECTION 13.5.** The Judicial Department shall use up to the sum of one
38 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
39 Department to provide the State match needed in order to receive federal grant funds.
40 Prior to using funds for this purpose, the Department shall report to the Chairs of the
41 Senate and House of Representatives Appropriations Subcommittees on Justice and
42 Public Safety and the Joint Legislative Commission on Governmental Operations on the
43 grants to be matched using these funds.

44
45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **PUBLIC DEFENDER STUDY**

47 **SECTION 13.6.** The Office of Indigent Defense Services shall study the
48 establishment of additional public defender districts in the State, identifying the areas of
49 the State in which savings could be realized by the establishment of such districts and
50 the projected savings in each area. The Office of Indigent Defense Services shall report
51 to the Chairs of the Senate and House of Representatives Appropriations Committees
52 and the Chairs of the Senate and House of Representatives Appropriations
53 Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its
54 study.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 13.7. Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

ADJUST MAGISTRATE AUTHORIZATIONS

SECTION 13.8. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min. – Max.		Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	5 4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	9 8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	

1	Franklin	3	7	
2	Person	3	4	
3	Caswell	2	5	
4	Wake	12	21	Apex,
5				Wendell,
6				Fuquay-
7				Varina,
8				Wake Forest
9	Harnett	7	11	Dunn
10	Johnston	10	12	Benson,
11				Clayton,
12				Selma
13	Lee	4	6	
14	Cumberland	10	19	
15	Bladen	4	6	
16	Brunswick	4	9	
17	Columbus	6	10	Tabor City
18	Durham	8	13	
19	Alamance	7	11	Burlington
20	Orange	4	11	Chapel Hill
21	Chatham	3	9	Siler City
22	Scotland	3	5	
23	Hoke	4	5	
24	Robeson	8	16	Fairmont,
25				Maxton,
26				Pembroke,
27				Red Springs,
28				Rowland,
29				St. Pauls
30	Rockingham	4	9	Reidsville,
31				Eden,
32				Madison
33	Stokes	2	5	
34	Surry	5	9	Mt. Airy
35	Guilford	20	27	High Point
36	Cabarrus	5	9	Kannapolis
37	Montgomery	2	4	
38	Randolph	5	10	Liberty
39	Rowan	5	10	
40	Stanly	5	6	
41	Union	4	7	
42	Anson	4	6	
43	Richmond	5	6	Hamlet
44	Moore	5	8	Southern
45				Pines
46	Forsyth	3	15	Kernersville
47	Alexander	2	4	
48	Davidson	7	10	Thomasville
49	Davie	2	3	
50	Iredell	4	9	Mooresville
51	Alleghany	1	2	
52	Ashe	3	4	
53	Wilkes	4	6	
54	Yadkin	3	5	
55	Avery	3	5	

1	Madison	4	5	
2	Mitchell	3	4	
3	Watauga	4	6	
4	Yancey	2	4	
5	Burke	4	7	
6	Caldwell	4	7	
7	Catawba	6	10	Hickory
8	Mecklenburg	15	28	
9	Gaston	11	22	
10	Cleveland	5	8	
11	Lincoln	4	7	
12	Buncombe	6	15	
13	Henderson	4	7	
14	McDowell	3	6	
15	Polk	3	4	
16	Rutherford	6	8	
17	Transylvania	2	4	
18	Cherokee	3	4	
19	Clay	1	2	
20	Graham	2	3	
21	Haywood	5	7	Canton
22	Jackson	3	5	
23	Macon	3	4	
24	Swain	2	34"	

Requested by: Senators Thomas, Garrou, Dalton, Hagan

NO COURT-ORDERED ARBITRATION ON APPEAL FROM MAGISTRATE

SECTION 13.9. G.S. 7A-37.1 is amended by adding a new subsection to read:

"(b1) A court may not order arbitration under this section on appeal from a magistrate's decision."

Requested by: Senators Thomas, Garrou, Dalton, Hagan

NORTH CAROLINA STATE BAR FUNDS

SECTION 13.10. Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2003-2005 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2003-2004 fiscal year and up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2004-2005 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2004, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

CLARIFY PARTIAL PAYMENT OF APPOINTMENT FEE FOR CRIMINAL DEFENDANTS

SECTION 13.11. G.S. 7A-455.1 reads as rewritten:

"§ 7A-455.1. Appointment fee in criminal cases.

(a) Each person who requests the appointment of counsel in a criminal case shall pay to the clerk of court a nonrefundable appointment fee of fifty dollars (\$50.00) at the time of appointment. ~~Partial payments shall be credited against the amount of the fifty dollar (\$50.00) fee due.~~ No fee shall be due if the court finds that the person is not entitled to the appointment of counsel.

1 (b) The appointment fee in this section is due regardless of the outcome of the
2 proceedings. ~~If paid before the final determination of the action at the trial level, the~~
3 ~~amount of the fee paid in full at the time of appointment, the fifty dollars (\$50.00) paid~~
4 shall be credited against any amounts the court determines to be owed for the value of
5 legal services rendered to the defendant. ~~If not paid before the final determination of the~~
6 ~~action at the trial level, the unpaid amount of the in full at the time of appointment, the~~
7 ~~fifty-dollar (\$50.00) fee shall be added to any amounts the court determines to be owed~~
8 for the value of legal services rendered to the defendant and shall be collected in the
9 same manner as attorneys' fees are collected for such representation. If the fee is not
10 paid in full at the time of appointment, and no attorneys' fees are found due when the
11 action is finally determined at the trial level, a judgment shall be entered, docketed, and
12 indexed pursuant to G.S. 1-233 in the amount of ~~the unpaid fee~~ fifty dollars (\$50.00)
13 and shall constitute a lien as prescribed by the general law of the State applicable to
14 judgments.

15 (c) The attorney representing the defendant when the action is finally determined
16 at the trial level shall advise the court whether the appointment fee required by this
17 section has been paid.

18 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds
19 for denying appointment of counsel, for withdrawal of counsel, or for contempt.

20 (e) The appointment fee required by this section shall be assessed only once for
21 each affidavit of indigency submitted by a defendant or other determination of
22 indigency by the court, regardless of the number of cases for which an attorney is
23 appointed. An additional appointment fee shall not be assessed for any additional cases
24 thereafter assigned to an attorney if any cases for which a defendant was previously
25 assessed an appointment fee are still pending. Nor shall an additional appointment fee
26 be assessed if the charges for which an attorney was appointed are dismissed and
27 subsequently refiled or if the defendant is appointed an attorney on appeal on a matter
28 for which the defendant was assessed an appointment fee at the trial level.

29 (f) Of each appointment fee collected under this section, the sum of forty-five
30 dollars (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the
31 sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund
32 under G.S. 7A-343.2. These fees shall not revert.

33 (g) The Office of Indigent Defense Services shall adopt rules and develop forms
34 to govern implementation of this section."
35

36 Requested by: Senators Thomas, Clodfelter, Garrou, Dalton, Hagan

37 **PILOT PROJECT ON ASSIGNMENT OF CIVIL CASES**

38 **SECTION 13.12.(a)** The Administrative Office of the Courts may conduct a
39 pilot project in up to four judicial districts to assess a system for the assignment and
40 processing of general civil cases filed in the General Court of Justice. No district may be
41 selected without the concurrence of the senior resident superior court judge and the
42 chief district court judge.

43 The project shall evaluate methods of assigning cases to individual judges or
44 sessions of court in the district court division or the superior court division, considering
45 the nature of the case, the amount in controversy, the complexity of the issues, the
46 likelihood of settlement, the availability and suitability of alternative dispute resolution
47 programs, and any other appropriate factors relevant to just resolution of the cases and
48 efficient use of court resources. In pilot districts designated by the Administrative
49 Office of the Courts under this section, general civil cases may be assigned or
50 transferred to alternative dispute resolution programs used within the district court or
51 superior court, notwithstanding the provisions of G.S. 7A-37.1, G.S. 7A-38.1, or
52 Articles 20 and 21 of Chapter 7A of the General Statutes.

53 **SECTION 13.12.(b)** This section expires June 30, 2005.
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

DISPUTE RESOLUTION FEE CLARIFICATION

SECTION 13.13. G.S. 7A-38.7 reads as rewritten:

"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation for the support of the General Court of Justice. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section."

PART XIV. DEPARTMENT OF JUSTICE

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE
LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

SECTION 14.1.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 14.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 14.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING
BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

SECTION 14.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 14.3. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**
2 **REPRESENTATION**

3 **SECTION 14.4.** The Department of Justice shall be reimbursed by the
4 Board of Governors of The University of North Carolina for two Attorney III positions
5 to provide legal representation to The University of North Carolina System.
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR**
9 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
10 **CRIMINAL RECORDS CHECKS**

11 **SECTION 14.5.(a)** The Department of Justice shall report by January 15
12 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
13 of the Senate and House of Representatives Appropriations Committees, and the Chairs
14 of the Senate and House of Representatives Appropriations Subcommittees on Justice
15 and Public Safety on the receipts, costs for, and number of criminal records checks
16 performed in connection with applications for concealed weapons permits. The report
17 by the Department of Justice shall also include information on the number of
18 applications received and approved for firearms safety courses.

19 **SECTION 14.5.(b)** The Office of State Budget and Management, in
20 consultation with the Department of Justice, shall study the feasibility of adjusting the
21 fees charged for criminal records checks conducted by the Division of Criminal
22 Information of the Department of Justice as a result of the increase in receipts from
23 criminal records checks. The study shall include an assessment of the Division's
24 operational, personnel, and overhead costs related to providing criminal records checks
25 and how those costs have changed since the prior fiscal year. The Office of State Budget
26 and Management shall report its findings and recommendations to the Chairs of the
27 Senate and House of Representatives Appropriations Committees, the Chairs of the
28 Senate and House of Representatives Appropriations Subcommittees on Justice and
29 Public Safety, and the Fiscal Research Division on or before March 1, 2004.
30

31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
33 **DISBURSED**

34 **SECTION 14.6.** The North Carolina Legal Education Assistance Foundation
35 shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate
36 Appropriations Committees and the Chairs of the House of Representatives and Senate
37 Justice and Public Safety Subcommittees on its internal controls and procedures for
38 ensuring that all funds designated for payoff of education loans are used for that
39 purpose. The Foundation shall report by March 1 of each year to the Joint Legislative
40 Commission on Governmental Operations on the expenditure of State funds, the number
41 of attorneys receiving funds, the average award amount, the average student loan
42 amount, the number of attorneys on the waiting list, and the average number of years for
43 which attorneys receive loan assistance.
44

45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **COMPUTER CRIMES GRANT FUNDS**

47 **SECTION 14.8.** On July 1, 2004, the Department of Justice may transfer the
48 seven State Bureau of Investigation agents funded in the 2003-2004 fiscal year with
49 federal funds from Computer Crimes grants to agent positions in the State Bureau of
50 Investigation that are (i) vacant, (ii) funded through the General Fund, and (iii) in
51 existence on July 1, 2003.
52

53 Requested by: Senators Thomas, Hagan, Garrou, Dalton

54 **RAPE KIT ANALYSES BY PRIVATE VENDORS**

1 **SECTION 14.9.** The Department of Justice shall issue a Request for
2 Information to determine (i) the interest of private vendors in providing analyses of
3 forensic samples of DNA from rape kits in which there is no suspect, (ii) the
4 qualifications of any private vendors who demonstrate such an interest, and (iii) the
5 estimated costs of contracting with private vendors to provide analyses of forensic DNA
6 samples.

7
8 **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
9 **PREVENTION**

10
11 Requested by: Senators Thomas, Garrou, Dalton, Hagan

12 **S.O.S. ADMINISTRATIVE COST LIMITS**

13 **SECTION 15.1.** Of the funds appropriated to the Department of Juvenile
14 Justice and Delinquency Prevention in this act, not more than four hundred fifty
15 thousand dollars (\$450,000) for the 2003-2004 fiscal year and not more than four
16 hundred fifty thousand dollars (\$450,000) for the 2004-2005 fiscal year may be used to
17 administer the S.O.S. Program, to provide technical assistance to applicants and to local
18 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may
19 contract with appropriate public or nonprofit agencies to provide the technical
20 assistance, including training and related services.

21
22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND**
24 **CERTIFICATION**

25 **SECTION 15.2.(a)** On or before May 1 each year, the Department of
26 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative
27 Commission on Governmental Operations and the Appropriations Committees of the
28 Senate and House of Representatives a list of the recipients of the grants awarded, or
29 preapproved for award, from funds appropriated to the Department for local Juvenile
30 Crime Prevention Council grants. The list shall include for each recipient the amount of
31 the grant awarded, the membership of the local committee or council administering the
32 award funds on the local level, and a short description of the local services, programs, or
33 projects that will receive funds. The list shall also identify any programs that received
34 grant funds at one time but for which funding has been eliminated by the Department of
35 Juvenile Justice and Delinquency Prevention. A written copy of the list and other
36 information regarding the projects shall also be sent to the Fiscal Research Division of
37 the General Assembly.

38 **SECTION 15.2.(b)** Each county in which local programs receive Juvenile
39 Crime Prevention Council grant funds from the Department of Juvenile Justice and
40 Delinquency Prevention shall certify annually through its local council to the
41 Department that funds received are not used to duplicate or supplant other programs
42 within the county.

43
44 Requested by: Senators Thomas, Garrou, Dalton, Hagan

45 **REPORTS ON CERTAIN PROGRAMS**

46 **SECTION 15.3.(a)** Project Challenge North Carolina, Inc., shall report to
47 the Chairs of the Senate and House of Representatives Appropriations Subcommittees
48 on Justice and Public Safety by April 1 each year on the operation and the effectiveness
49 of its program in providing alternative dispositions and services to juveniles who have
50 been adjudicated delinquent or undisciplined. The report shall include information on
51 the source of referrals for juveniles, the types of offenses committed by juveniles
52 participating in the program, the amount of time those juveniles spend in the program,
53 the number of juveniles who successfully complete the program, and the number of
54 juveniles who commit additional offenses after completing the program.

1 **SECTION 15.3.(b)** The Department of Juvenile Justice and Delinquency
2 Prevention shall report to the Chairs of the Senate and House of Representatives
3 Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the
4 Juvenile Assessment Center by April 1 each year. The report on the Juvenile
5 Assessment Center shall include information on the number of juveniles served and an
6 evaluation of the effectiveness of juvenile assessment plans and services provided as a
7 result of these plans.

8 **SECTION 15.3.(c)** Communities in Schools shall report to the Chairs of the
9 Senate and House of Representatives Appropriations Subcommittees on Justice and
10 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
11 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
12 the Joint Legislative Education Oversight Committee by April 1 each year on the
13 operation and the effectiveness of its program. The report shall include information on
14 the number of children served, the number of volunteers used, the impact on the
15 children who have received services from Communities in Schools, and the operating
16 budget of Communities in Schools.

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

20 **SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile
21 Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as
22 matching funds for the Juvenile Accountability Incentive Block Grants. If North
23 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
24 to be awarded, the Office of State Budget and Management and the Governor's Crime
25 Commission shall consult with the Department of Juvenile Justice and Delinquency
26 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
27 and Management, the Governor's Crime Commission, and the Department of Juvenile
28 Justice and Delinquency Prevention shall report to the Appropriations Committees of
29 the Senate and House of Representatives and the Joint Legislative Commission on
30 Governmental Operations prior to allocation of the federal funds. The report shall
31 identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of
32 funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program
33 and purpose.

34
35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

37 **SECTION 15.5.** The Department of Juvenile Justice and Delinquency
38 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
39 camp programs, the teen court programs, the program that grants funds to the local
40 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
41 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
42 multipurpose group homes. The teen court report shall include statistical information
43 on the number of juveniles served, the number and type of offenses considered by teen
44 courts, referral sources for teen courts, and the number of juveniles that become
45 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
46 program shall include information on:

- 47 (1) The expenditure of State appropriations on the program;
- 48 (2) The operations and the effectiveness of the program; and
- 49 (3) The number of juveniles served under the program.

50 In conducting the evaluation of each of these programs, the Department shall
51 consider whether participation in each program results in a reduction of court
52 involvement among juveniles. The Department shall also identify whether the programs
53 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
54 Department shall report the results of the evaluation to the Chairs of the House of
55 Representatives and Senate Appropriations Committees and the Chairs of the

1 Subcommittees of Justice and Public Safety of the House of Representatives and Senate
2 Appropriations Committees by March 1 of each year.

3
4 Requested by: Senators Thomas, Garrou, Dalton, Hagan

5 **USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS**

6 **SECTION 15.6.(a)** The Department of Juvenile Justice and Delinquency
7 Prevention may use funds available during the 2003-2004 fiscal year to (i) establish or
8 reestablish Youth Development Center beds, (ii) establish up to 16 new sex offender
9 beds, and (iii) convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth
10 Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated
11 with existing contract funds.

12 **SECTION 15.6.(b)** The Department shall report to the Chairs of the Justice
13 and Public Safety Subcommittees of the House of Representatives and the Senate and
14 the Joint Legislative Commission on Governmental Operations and the Corrections,
15 Crime Control, and Juvenile Justice Oversight Committee prior to:

- 16 (1) Converting any Eckerd Wilderness Camp beds to secure confinement
17 beds during the 2003-2004 fiscal year;
- 18 (2) Establishing bed capacity greater than 740 total beds, including beds
19 converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal
20 year; or
- 21 (3) Establishing new sex offender beds.

22 The report shall include the sources of funding for any additional beds.

23
24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

26 **SECTION 15.7.** The Department of Juvenile Justice and Delinquency
27 Prevention may use funds appropriated to the Department in this act to continue the
28 planning and design of new youth development centers with up to 500 total beds. The
29 Department shall design facilities that are conducive to effective security and
30 programming while ensuring improved staffing efficiencies.

31 The Department of Juvenile Justice and Delinquency Prevention shall provide
32 a quarterly report to the Joint Legislative Corrections, Crime Control, and Juvenile
33 Justice Oversight Committee and to the Chairs of the House of Representatives
34 Appropriations Subcommittee on Justice and Public Safety and the Senate
35 Appropriations Committee on Justice and Public Safety on the status of the planning
36 and design of the new facilities. The first status report shall address (i) the number of
37 youth development centers to be designed, (ii) the number of beds at each facility, (iii)
38 the rationale for the number of beds to be built at each facility, and (iv) the proposed
39 sites for the facilities.

40 Prior to completing the design development phase of the plan for new youth
41 development centers, the Department shall report to the Joint Legislative Corrections,
42 Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the
43 House of Representatives Appropriations Subcommittee on Justice and Public Safety
44 and the Senate Appropriations Committee on Justice and Public Safety on:

- 45 (1) How the plan and design will meet the mandate of ensuring effective
46 security and programming while improving staff efficiencies.
- 47 (2) The Department's long-range plan for closing other youth development
48 centers or individual cottages at selected youth development centers or
49 revising the mission or objective of individual youth development
50 centers.
- 51 (3) The anticipated total cost of each youth development center proposed,
52 including the cost per bed and per square foot, as well as the rationale
53 for the proposed projected cost.

54
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 15.8. The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

PART XVI. DEPARTMENT OF CORRECTION

Requested by: Senators Thomas, Garrou, Dalton, Hagan

FEDERAL GRANT REPORTING

SECTION 16.1. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16.2. The Department of Correction may use funds available to the Department for the 2003-2004 fiscal year to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

SHIFT PAY FOR SECURITY STAFF

SECTION 16.3. The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The

1 report shall include information on savings generated to date and potential future
2 savings, as well as any changes in employee morale and leave usage, as a result of
3 converting to 12-hour shifts.

4
5 Requested by: Senators Thomas, Garrou, Dalton, Hagan

6 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

7 **SECTION 16.4.(a)** The Department of Correction shall conduct annual
8 security staffing postaudits of each prison.

9 **SECTION 16.4.(b)** The Department of Correction shall annually update the
10 security staffing relief formula. Each update shall include a review of all annual training
11 requirements for security staff to determine which of these requirements should be
12 mandatory and the appropriate frequency of the training.

13 **SECTION 16.4.(c)** The Department of Correction shall report on its
14 progress in implementing the staffing recommendations of the National Institute of
15 Corrections to the Senate and House of Representatives Appropriations Subcommittees
16 on Justice and Public Safety by February 1, 2004. The report shall include a status
17 report on the implementation of a centralized postaudit control system and the
18 automation of leave records.

19
20 Requested by: Senators Thomas, Garrou, Dalton, Hagan

21 **USE OF CLOSED PRISON FACILITIES**

22 **SECTION 16.5.** In conjunction with the closing of prison facilities,
23 including small expensive prison units recommended for consolidation by the
24 Government Performance Audit Committee, the Department of Correction shall consult
25 with the county or municipality in which the unit is located, with the elected State and
26 local officials, and with State agencies about the possibility of converting that unit to
27 other use. The Department may also consult with any private for-profit or nonprofit firm
28 about the possibility of converting the unit to other use. In developing a proposal for
29 future use of each unit, the Department shall give priority to converting the unit to other
30 criminal justice use. Consistent with existing law and the future needs of the
31 Department of Correction, the State may provide for the transfer or the lease of any of
32 these units to counties, municipalities, State agencies, or private firms wishing to
33 convert them to other use. The Department of Correction may also consider converting
34 some of the units recommended for closing from one security custody level to another,
35 where that conversion would be cost-effective. A prison unit under lease to a county
36 pursuant to the provisions of this section for use as a jail is exempt for the period of the
37 lease from any of the minimum standards adopted by the Secretary of Health and
38 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that
39 would subject the unit to greater standards than those required of a unit of the State
40 prison system.

41 Prior to any transfer or lease of these units, the Department of Correction
42 shall report on the terms of the proposed transfer or lease to the Joint Legislative
43 Commission on Governmental Operations and the Joint Legislative Corrections, Crime
44 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall
45 also provide annual summary reports to the Joint Legislative Commission on
46 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
47 Juvenile Justice Oversight Committee on the conversion of these units to other use and
48 on all leases or transfers entered into pursuant to this section.

49
50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **INMATE COSTS/BUDGET FOR PRESCRIPTION DRUGS AND INMATE**
52 **CLOTHING AND LAUNDRY SERVICES**

53 **SECTION 16.6.(a)** If the cost of providing food and health care to inmates
54 housed in the Division of Prisons is anticipated to exceed the continuation budget
55 amounts provided for that purpose in this act, the Department of Correction shall report

1 the reasons for the anticipated cost increase and the source of funds the Department
2 intends to use to cover those additional needs to the Joint Legislative Commission on
3 Governmental Operations, the Chairs of the Senate and House of Representatives
4 Appropriations Committees, and the Chairs of the Senate and House of Representatives
5 Appropriations Subcommittees on Justice and Public Safety.

6 **SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the
7 Department of Correction may use funds available during the 2003-2004 fiscal year for
8 the purchase of prescription drugs for inmates if expenditures are projected to exceed
9 the Department's inmate medical continuation budget for prescription drugs. The
10 Department shall consult with the Joint Legislative Commission on Governmental
11 Operations prior to exceeding the continuation budget amount.

12 **SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the
13 Department of Correction may use funds available during the 2003-2004 fiscal year for
14 the purchase of clothing and laundry services for inmates if expenditures are projected
15 to exceed the Department's budget for clothing and laundry services. The Department
16 shall consult with the Joint Legislative Commission on Governmental Operations prior
17 to exceeding the continuation budget amount.

18
19 Requested by: Senators Thomas, Garrou, Dalton, Hagan

20 **MOBILE MEDICAL OPERATING ROOM**

21 **SECTION 16.7.** The Department of Correction shall continue the contract
22 for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a
23 reduced fixed rate that more clearly reflects the usage. However, the Department shall
24 use the mobile unit for additional procedures, as authorized by the terms of the
25 agreement, whenever the Department's Utilization Review Team determines that (i) a
26 specific procedure can be performed at a cost below that charged by a public or private
27 hospital; and (ii) there is no compelling medical reason for performing the procedure in
28 a hospital instead of using the mobile medical unit.

29 The Department shall also study the use of this mobile operating room and
30 report by April 1, 2004, to the Chairs of the Senate and House of Representatives
31 Appropriations Subcommittees on Justice and Public Safety. The report shall
32 recommend whether the mobile unit should be continued, eliminated, or expanded in
33 terms of capacity of the current unit and the potential for establishing an additional
34 mobile unit. The report shall also include information on the number and type of
35 procedures performed over and above the fixed-rate contract and the savings generated.

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

39 **SECTION 16.8.(a)** The Department of Correction may convert contract
40 medical positions to permanent State medical positions at individual correctional
41 facilities if the Department can document that the total savings generated will exceed
42 the total cost of the new positions for each facility. Where practical, the Department
43 shall convert contract positions to permanent positions by using existing vacancies in
44 medical positions.

45 **SECTION 16.8.(b)** The Department of Correction shall report by April 1,
46 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs
47 of the Senate and House of Representatives Appropriations Subcommittees on Justice
48 and Public Safety on all conversions made pursuant to this section, by type of position
49 and location, and on the savings generated at each correctional facility.

50
51 Requested by: Senators Thomas, Garrou, Dalton, Hagan

52 **LIMIT USE OF OPERATIONAL FUNDS**

53 **SECTION 16.9.** Funds appropriated in this act to the Department of
54 Correction for operational costs for additional facilities shall be used for personnel and
55 operating expenses set forth in the budget approved by the General Assembly in this act.

1 These funds shall not be expended for any other purpose, except as provided for in this
2 act, and shall not be expended for additional prison personnel positions until the new
3 facilities are within 120 days of projected completion, except for certain management,
4 security, and support positions necessary to prepare the facility for opening, as
5 authorized in the budget approved by the General Assembly.
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **FEDERAL GRANT MATCHING FUNDS**

9 **SECTION 16.10.** Notwithstanding the provisions of G.S. 148-2, the
10 Department of Correction may use up to the sum of nine hundred thousand dollars
11 (\$900,000) from funds available to the Department to provide the State match needed in
12 order to receive federal grant funds. Prior to using funds for this purpose, the
13 Department shall report to the Chairs of the Senate and House of Representatives
14 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
15 Commission on Governmental Operations on the grants to be matched using these
16 funds.
17

18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

20 **SECTION 16.11.** Notwithstanding the provisions of G.S. 143-23(a2), the
21 Department of Correction may use funds available during the 2003-2004 fiscal year for
22 expenses for computer/data processing services if expenditures exceed the Department's
23 continuation budget amount for those services. The Department shall report to the Joint
24 Legislative Commission on Governmental Operations prior to exceeding the
25 continuation budget amount.
26

27 Requested by: Senators Thomas, Garrou, Dalton, Hagan

28 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**
29 **CREWS**

30 **SECTION 16.12.(a)** Of funds appropriated to the Department of
31 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be
32 transferred by the Department of Transportation to the Department of Correction during
33 the 2003-2005 biennium for the actual costs of highway-related labor performed by
34 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made
35 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The
36 Department of Transportation may use funds appropriated by this act to pay an
37 additional amount exceeding the ten million dollars (\$10,000,000), but those payments
38 shall be subject to negotiations among the Department of Transportation, the
39 Department of Correction, and the Office of State Budget and Management prior to
40 payment by the Department of Transportation.
41

42 **SECTION 16.12.(b)** The Department of Correction may use up to 39 work
43 crews for Department of Transportation litter control projects. The Department of
44 Transportation shall transfer at least one million three hundred thousand dollars
45 (\$1,300,000) per year from the Highway Fund to the Department of Correction during
46 the 2003-2005 biennium to cover the cost of those work crews. Should the two
47 departments determine that the actual cost of operating 39 work crews exceeds that
48 amount, the Department of Transportation shall transfer an additional amount as agreed
49 upon by the two departments and the Office of State Budget and Management.
50

50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

52 **SECTION 16.13.** The Department of Correction may continue to contract
53 with Energy Committed To Offenders, Inc., for the purchase of prison beds for
54 minimum security female inmates during the 2003-2005 biennium. Energy Committed
55 To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative

1 Commission on Governmental Operations on the annual cost per inmate and the average
2 daily inmate population compared to bed capacity using the same methodology as that
3 used by the Department of Correction. Energy Committed To Offenders, Inc., shall also
4 provide information on the rearrest rate and the return-to-prison rate for inmates
5 participating in the program who are paroled or released from prison.
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **ELECTRONIC MONITORING COSTS**

9 **SECTION 16.14.** The Department of Correction shall issue a Request for
10 Information to determine the interest and qualifications of private vendors to provide
11 electronic monitoring services for the Department and the estimated costs of
12 outsourcing those services. The Department of Correction shall report by March 1,
13 2004, to the Chairs of the Senate and House of Representatives Appropriations
14 Committees and the Chairs of the Senate and House of Representatives Appropriations
15 Subcommittees on Justice and Public Safety on the results of the Request for
16 Information and on efforts to increase the use of electronic monitoring of sentenced
17 offenders in the community as an alternative to the incarceration of probation violators.
18 The report shall also document the geographical distribution of electronic monitoring
19 use compared to other intermediate sanctions. The Department shall also analyze the
20 reasons for the underutilization of the electronic monitoring program and include its
21 findings in the report.
22

23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

24 **COLLECTION OF OFFENDER FEES**

25 **SECTION 16.15.** The Department of Correction and the Judicial
26 Department shall report by April 1, 2004, to the Chairs of the Senate and House of
27 Representatives Appropriations Committees and the Chairs of the Senate and House of
28 Representatives Appropriations Subcommittees on Justice and Public Safety on the
29 success of their efforts to improve the collection rate of offender fees for probationers
30 and for nonprobationers sentenced to community service and on any recommendations
31 for statutory or procedural changes that will improve the collection of financial
32 obligations from offenders.

33 The report shall include a comparison of the percentage of offender fees
34 collected in the most recent year compared to prior years, including the percentage of
35 offenders who were ordered to pay fees and the percentage of offenders who actually
36 paid those fees. The report shall also include the total offender fees collected, in dollars
37 and as a percentage of the fees ordered, and the fees that could have been ordered based
38 on the sentence and conditions imposed by the judge. If any of this information cannot
39 be collected, the report shall include a description of the data collection issues and a
40 plan for addressing those issues.
41

42 Requested by: Senators Thomas, Garrou, Dalton, Hagan

43 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

44 **SECTION 16.16.(a)** It is the intent of the General Assembly that State
45 Criminal Justice Partnership Program funds not be used to fund case manager positions
46 when those services can be reasonably provided by Division of Community Corrections
47 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
48 Department of Health and Human Services.

49 **SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15
50 specifying that grants to participating counties are for the full fiscal year and that
51 unobligated funds are returned to the State-County Criminal Justice Partnership
52 Account at the end of the grant period, the Department of Correction may reallocate
53 unspent or unclaimed funds distributed to counties participating in the State-County
54 Criminal Justice Partnership Program in an effort to maintain the level of services
55 realized in previous fiscal years.

1 **SECTION 16.16.(c)** The Department of Correction may not deny funds to a
2 county to support both a residential program and a day reporting center if the
3 Department of Correction determines that the county has a demonstrated need and a
4 fully developed plan for each type of sanction.

5 **SECTION 16.16.(d)** The Department of Correction shall report by February
6 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
7 Committees, the Senate and House of Representatives Appropriations Subcommittees
8 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
9 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
10 Partnership Program. The report shall include the following information:

- 11 (1) The amount of funds carried over from the prior fiscal year;
- 12 (2) The dollar amount and purpose of grants awarded to counties as
13 discretionary grants for the current fiscal year;
- 14 (3) Any counties the Department anticipates will submit requests for new
15 implementation grants;
- 16 (4) An update on efforts to ensure that all counties make use of the
17 electronic reporting system, including the number of counties
18 submitting offender participation data via the system;
- 19 (5) An analysis of offender participation data received, including data on
20 each program's utilization and capacity; and
- 21 (6) An analysis of comparable programs, prepared by the Research and
22 Planning Division of the Department of Correction, and a summary of
23 the reports prepared by county Criminal Justice Partnerships Advisory
24 Boards.

25
26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **REPORTS ON NONPROFIT PROGRAMS**

28 **SECTION 16.17.(a)** Funds appropriated in this act to the Department of
29 Correction to support the programs of Harriet's House may be used for program
30 operating costs, the purchase of equipment, and the rental of real property. Harriet's
31 House shall report by February 1 of each year to the Joint Legislative Commission on
32 Governmental Operations on the expenditure of State appropriations and on the
33 effectiveness of the program, including information on the number of clients served and
34 the number of clients who successfully complete the Harriet's House program.

35 **SECTION 16.17.(b)** Summit House shall report by February 1 of each year
36 to the Joint Legislative Commission on Governmental Operations on the expenditure of
37 State appropriations and on the effectiveness of the program, including information on
38 the number of clients served, the number of clients who have had their probation
39 revoked, and the number of clients who successfully complete the program while
40 housed at Summit House, Inc.

41 **SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year
42 to the Joint Legislative Commission on Governmental Operations on the expenditure of
43 State funds and on the effectiveness of the program, including information on the
44 number of clients served, the number of clients who have had their probation revoked,
45 and the number of clients who have successfully completed the program.

46
47 Requested by: Senators Thomas, Garrou, Dalton, Hagan

48 **PROBATION AND PAROLE CASELOADS**

49 **SECTION 16.18.(a)** The Department of Correction shall report by March 1
50 of each year to the Chairs of the Senate and House of Representatives Appropriations
51 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
52 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
53 probation and parole officers. The report shall include:

- 54 (1) Data on current caseload averages for Probation Parole Officer I,
55 Probation Parole Officer II, and Probation Parole Officer III positions;

- 1 (2) An analysis of the optimal caseloads for these officer classifications;
2 and
3 (3) An assessment of the role of surveillance officers.

4 **SECTION 16.18.(b)** The Department of Correction shall conduct a study of
5 probation/parole officer workload at least biannually, the first such study to be
6 completed during the 2003-2004 fiscal year. The initial study shall be conducted jointly
7 by Department staff and a consultant, external to the Department, and shall include
8 analysis of the type of offenders supervised, the distribution of the probation/parole
9 officers' time by type of activity, the caseload carried by the officers, and comparisons
10 to practices in other states. The study shall be used to determine whether the caseload
11 goals established by the Structured Sentencing Act are still appropriate, based on the
12 nature of the offenders supervised and the time required to supervise those offenders.

13 **SECTION 16.18.(c)** The Department of Correction shall report the results of
14 the initial study and recommendations for any adjustments to caseload goals to the
15 Senate and House of Representatives Appropriations Subcommittees on Justice and
16 Public Safety by April 1, 2004.

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **COMMUNITY SERVICE WORK PROGRAM**

20 **SECTION 16.19.** The Department of Correction shall report to the Chairs of
21 the Senate and House of Representatives Appropriations Subcommittees on Justice and
22 Public Safety by May 1, 2004, on the integration of the Community Service Work
23 Program into the Division of Community Corrections, including the Department's
24 ability to monitor the collection of offender payments from unsupervised offenders
25 sentenced to community service. The Department shall also report to the Chairs of the
26 Senate and House of Representatives Appropriations Subcommittees on Justice and
27 Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the
28 average caseloads of Community Service Work Program coordinators, by district,
29 division, and statewide. The report shall also include the money collected, the type and
30 value of the work performed, and the number of offenders in the Community Service
31 Work Program, by type of referral (i.e. parole, supervised probation, unsupervised
32 probation or community punishment, DWI, any other agency referrals).

33
34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

36 **SECTION 16.20.** The Post-Release Supervision and Parole Commission
37 shall report by January 15 and July 15 of each year to the Senate and House of
38 Representatives Appropriations Subcommittees on Justice and Public Safety and the
39 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
40 on inmates eligible for parole. These reports shall include at least the following:

- 41 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
42 that were parole-eligible during the current fiscal year and the total
43 number of those inmates that were paroled. The report should group
44 these inmates by offense type, custody classification, and type of
45 parole. The report should also include a more specific analysis of those
46 inmates who were parole-eligible and assigned to minimum custody
47 classification but not released;
48 (2) The average time served, by offense class, of Fair Sentencing and
49 Pre-Fair Sentencing inmates compared to inmates sentenced under
50 Structured Sentencing; and
51 (3) The projected number of parole-eligible inmates to be paroled or
52 released by the end of the 2003-2004 fiscal year and by the end of the
53 2004-2005 fiscal year.

54
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
2 **STAFFING REORGANIZATION AND REDUCTION**

3 **SECTION 16.21.** The Post-Release Supervision and Parole Commission
4 shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives
5 Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring
6 the organization and operation of the Commission to reflect both declines and changes
7 in workload.

8
9 Requested by: Senators Thomas, Garrou, Dalton, Hagan

10 **HOUSING OF INMATES**

11 **SECTION 16.22.** The Department of Correction shall develop an operating
12 plan for generating the appropriate mix of close, medium, and minimum custody beds.
13 The plan shall, at a minimum, address the future construction of new beds, conversion
14 of facilities from one custody level to another, and the housing of two inmates per cell.
15 The starting point for this plan shall be the Sentencing and Policy Advisory
16 Commission inmate population projections and the Department of Correction's custody
17 population projection model.

18 The portion of the plan regarding the housing of two inmates per cell shall
19 include a facility-by-facility assessment of the pros and cons of housing inmates in that
20 manner. The Department of Correction shall identify those facilities that would be most
21 conducive to housing two inmates per cell. The Department of Correction should focus
22 its review particularly on the potential to house two inmates per cell at Pamlico,
23 Mountain View, Eastern, Southern, Pasquotank, and Marion. The Department should
24 also review the potential to house two inmates per cell in at least one of any new prisons
25 authorized by the 2003 General Assembly.

26 The overall operating plan should address budgetary, security, and other
27 operational needs and, in particular, should note how the plan adheres to or deviates
28 from the Department of Correction's custody population projection model.

29 The Department of Correction shall report by February 1, 2004, to the Joint
30 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the
31 Chairs of the Senate and House Appropriations Committees, and the Chairs of the
32 Senate and House Appropriations Subcommittees on Justice and Public Safety on the
33 plan developed pursuant to this section.

34
35 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND**
39 **PUBLIC SAFETY**

40 **SECTION 17.1.(a)** G.S. 143-661(a) reads as rewritten:

41 "(a) The Criminal Justice Information Network Governing Board is established
42 within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and
43 Public Safety, to operate the State's Criminal Justice Information Network, the purpose
44 of which shall be to provide the governmental and technical information systems
45 infrastructure necessary for accomplishing State and local governmental public safety
46 and justice functions in the most effective manner by appropriately and efficiently
47 sharing criminal justice and juvenile justice information among law enforcement,
48 judicial, and corrections agencies. The Board is established within the Department of
49 ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for
50 organizational and budgetary purposes only and the Board shall exercise all of its
51 statutory powers in this Article independent of control by the Department of
52 ~~Justice-Crime Control and Public Safety.~~"

53 **SECTION 17.1.(b)** G.S. 143-664(b) reads as rewritten:

54 "(b) Pending permanent staffing, the Department shall provide the Board with
55 professional and clerical staff and any additional support the Board needs to fulfill its

1 mandate. The Board may meet in an area provided by the Department of ~~Justice-Crime~~
2 Control and Public Safety and the Board's staff shall use space provided by the
3 Department."

4 **SECTION 17.1.(c)** The Criminal Justice Information Network as provided
5 in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II
6 transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public
7 Safety.
8

9 Requested by: Senators Thomas, Garrou, Dalton, Hagan

10 **THE JUVENILE JUSTICE INFORMATION SYSTEM**

11 **SECTION 17.2.(a)** G.S. 143B-516(b)(13) reads as rewritten:

12 "(13) ~~Assist the Criminal Justice Information Network Governing Board~~
13 ~~with administering~~ Develop and administer a comprehensive juvenile
14 justice information system to collect data and information about
15 delinquent juveniles for the purpose of developing treatment and
16 intervention plans and allowing reliable assessment and evaluation of
17 the effectiveness of rehabilitative and preventive services provided to
18 delinquent juveniles."

19 **SECTION 17.2.(b)** G.S. 143-663(a)(1) reads as rewritten:

20 "(1) To establish and operate the Network as an integrated system of State
21 and local government components for effectively and efficiently
22 storing, communicating, and using criminal justice information at the
23 State and local levels throughout North Carolina's law enforcement,
24 judicial, juvenile justice, and corrections agencies, with the
25 components of the Network to include electronic devices, programs,
26 data, and governance and to set the Network's policies and
27 procedures."
28

29 Requested by: Senators Thomas, Albertson, Garrou, Dalton, Hagan

30 **ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM**

31 **SECTION 17.3.** The Department of Crime Control and Public Safety shall
32 report to the Chairs of the House of Representatives and Senate Appropriations
33 Committees and the Chairs of the House of Representatives and Senate Appropriations
34 Subcommittees on Justice and Public Safety by April 1 of each year on the operations
35 and effectiveness of the National Guard Tarheel Challenge Program. The report should
36 evaluate the program's effectiveness as an intervention method for preventing juveniles
37 from becoming undisciplined or delinquent. The report shall also evaluate the
38 Program's role in improving individual skills and employment potential for participants
39 and shall include:

- 40 (1) The source of referrals for individuals participating in the Program;
- 41 (2) The summary of types of actions or offenses committed by the
42 participants of the Program;
- 43 (3) An analysis outlining the cost of providing services for each
44 participant, including a breakdown of all expenditures related to the
45 administration and operation of the Program and the education and
46 treatment of the Program participants;
- 47 (4) The number of individuals who successfully complete the Program;
48 and
- 49 (5) The number of participants who commit offenses after completing the
50 Program.
51

52 Requested by: Senators Thomas, Garrou, Dalton, Hagan

53 **LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER**
54 **GRANTS**

1 **SECTION 17.4.(a)** Section 1303(4) of the Omnibus Crime Control and Safe
2 Streets Act of 1968 provides that the State application for Drug Law Enforcement
3 Grants is subject to review by the State legislature or its designated body. Therefore, the
4 Governor's Crime Commission of the Department of Crime Control and Public Safety
5 shall report on the State application for grants under the State and Local Law
6 Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe
7 Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act
8 of 1986, to the Senate and House of Representatives Appropriations Subcommittees on
9 Justice and Public Safety when the General Assembly is in session. When the General
10 Assembly is not in session, the Governor's Crime Commission shall report on the State
11 application to the Joint Legislative Commission on Governmental Operations.

12 **SECTION 17.4.(b)** Unless a State statute provides a different forum for
13 review, when a federal law or regulation provides that an individual State application
14 for a grant shall be reviewed by the State legislature or its designated body and at the
15 time of the review the General Assembly is not in session, that application shall be
16 reviewed by the Joint Legislative Commission on Governmental Operations.

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **VICTIMS ASSISTANCE NETWORK REPORT**

20 **SECTION 17.5.** The Department of Crime Control and Public Safety shall
21 report on the expenditure of funds allocated pursuant to this section for the Victims
22 Assistance Network. The Department shall also report on the Network's efforts to
23 gather data on crime victims and their needs, act as a clearinghouse for crime victims'
24 services, provide an automated crime victims' bulletin board for subscribers, coordinate
25 and support activities of other crime victims' advocacy groups, identify the training
26 needs of crime victims' services providers and criminal justice personnel, and
27 coordinate training for these personnel. The Department shall submit its report to the
28 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate
29 and House of Representatives by December 1 of each year of the biennium.

30
31 Requested by: Senators Thomas, Rand, Garrou, Dalton, Hagan

32 **ALE AGENTS SUBJECT TO STATE PERSONNEL ACT**

33 **SECTION 17.6.** Chapter 126 of the General Statutes, the State Personnel
34 System, applies to all Alcohol Law Enforcement agents of the Department of Crime
35 Control and Public Safety. The Office of State Personnel shall study salary
36 classifications of Alcohol Law Enforcement agents to determine the appropriate
37 classifications and salary ranges for those agents and shall report the results of the
38 study, including any recommendations or legislative proposals, to the Chairs of the
39 Senate and House of Representatives Subcommittees on Justice and Public Safety.

40
41 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

42
43 Requested by: Senators Swindell, Garrou, Dalton, Hagan

44 **AGENCIES TO USE MAIL SERVICE CENTER**

45 **SECTION 18.1.** G.S. 143-341(8)g. reads as rewritten:

46 **"§ 143-341. Powers and duties of Department.**

47 The Department of Administration has the following powers and duties:

48 ...
49 (8) General Services:

50 ...
51 g. To establish and operate a ~~central mailing system~~ mail service
52 center for that shall be used by all State agencies, agencies other
53 than the Employment Security Commission, and in connection
54 therewith and in the discretion of the Secretary, to make
55 application for and procure a post office substation for that

1 ~~purpose, and to do all things necessary in connection with the~~
 2 ~~maintenance of the central mailing system. mail service center.~~
 3 The Secretary ~~may shall~~ allocate and charge against the
 4 respective departments and agencies their proportionate parts of
 5 the cost of the maintenance of the ~~central mailing system. mail~~
 6 ~~service center.~~ The Secretary shall develop a plan for the
 7 efficient operation of the center that meets the needs of State
 8 ~~agencies and agencies,~~ ensures timely delivery of mail, and shall
 9 ~~present that plan to the Office of State Budget and Management~~
 10 ~~and the General Assembly no later than the convening date of~~
 11 ~~the 2003 General Assembly. mail, and ensures no loss of federal~~
 12 ~~funds."~~
 13

14 Requested by: Senators Swindell, Garrou, Dalton, Hagan

15 **STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF**
 16 **ADMINISTRATION**

17 **SECTION 18.2.** The Secretary of the Department of Administration, in
 18 collaboration with appropriate entities which concentrate on public policy and business
 19 management, shall study the functions of the advocacy programs that are housed in the
 20 Department of Administration to determine the appropriate organizational placement of
 21 the programs within State government. The study shall also consider whether the
 22 functions of the programs could be more efficiently and effectively performed by an
 23 appropriate nonprofit organization. The Secretary shall report the findings and
 24 recommendations to the Joint Legislative Commission on Governmental Operations and
 25 to the Chairs of the Senate and House of Representatives Appropriations Committees by
 26 May 1, 2004.
 27

28 Requested by: Senators Swindell, Dorsett, Garrou, Dalton, Hagan

29 **LOW-INCOME RESIDENTIAL ENERGY PROGRAM**

30 **SECTION 18.3.** G.S. 113B-6 reads as rewritten:

31 **"§ 113B-6. General duties and responsibilities.**

32 The Energy Policy Council shall have the following general duties and
 33 responsibilities:

- 34 (1) To develop and recommend to the Governor a comprehensive
 35 long-range State energy policy to achieve maximum effective
 36 management and use of present and future sources of energy, such
 37 policy to include but not be limited to an energy efficiency program,
 38 an energy management plan, an emergency energy program, and an
 39 energy research and development program;
- 40 (2) To conduct an ongoing assessment of the opportunities and constraints
 41 presented by various uses of all forms of energy and to encourage the
 42 efficient use of all such energy forms in a manner consistent with State
 43 energy policy;
- 44 (3) To continually review and coordinate all State government research,
 45 education and management programs relating to energy matters and to
 46 continually educate and inform the general public regarding such
 47 energy matters;
- 48 (4) To recommend to the Governor and to the General Assembly needed
 49 energy legislation and to recommend for implementation such
 50 modifications of energy policy, plans and programs as the Council
 51 considers necessary and desirable.
- 52 (5) To develop and administer the Low-Income Residential Energy
 53 Program. Nothing in this subdivision shall be construed as obligating
 54 the General Assembly to appropriate funds for the Program or as
 55 entitling any person to services under the Program."

1
2 Requested by: Senators Swindell, Dorsett, Garrou, Dalton, Hagan

3 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

4 **SECTION 18.4.(a)** There is appropriated from funds and interest thereon
5 received from the case of United States v. Exxon that remain in the Special Reserve for
6 Oil Overcharge Funds to the Department of Administration the sum of one million
7 dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the Low Income
8 Residential Energy Program.

9 **SECTION 18.4.(b)** Any funds remaining in the Special Reserve for Oil
10 Overcharge Funds after the allocation is made pursuant to subsection (a) of this section
11 may be expended only as authorized by the General Assembly and upon
12 recommendations of the State Energy Policy Council. All interest or income accruing
13 from all deposits or investments of cash balances shall be credited to the Special
14 Reserve for Oil Overcharge Funds.

15
16 Requested by: Senators Swindell, Garrou, Dalton, Hagan

17 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
18 **FUND**

19 **SECTION 18.5.(a)** G.S. 165-22.1(b) reads as rewritten:

20 "(b) Funds for the support of this program shall be appropriated to the Department
21 of Administration as a reserve for payment of the allocable costs for room, board,
22 tuition, and other charges, and shall be placed in a separate budget code from which
23 disbursements shall be made. Funds to support the program shall be supported by
24 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be
25 used only for worthy and needy residents of this State who are enrolled in public
26 institutions of higher education of this State. In the event the said appropriation for any
27 year is insufficient to pay the full amounts allocable under the provisions of this Article,
28 such supplemental sums as may be necessary shall be allocated from the Contingency
29 and Emergency Fund. The method of disbursing and accounting for funds allocated for
30 payments under the provisions of this section shall be in accordance with those
31 standards and procedures prescribed by the Director of the Budget, pursuant to the
32 Executive Budget Act."

33 **SECTION 18.5.(b)** G.S. 116B-7 reads as rewritten:

34 **"§ 116B-7. Distribution of income of fund.**

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

46 (b) An amount specified in the Current Operations Appropriations Act shall be
47 transferred annually from the Escheat Fund to the Department of Administration to
48 partially fund the program of Scholarships for Children of War Veterans established by
49 Article 4 of Chapter 165 of the General Statutes. Those funds may be used only for
50 residents of this State who (i) are worthy and needy as determined by the Department of
51 Administration, and (ii) are enrolled in public institutions of higher education of this
52 State."

53 **SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this
54 act, for the 2003-2004 and 2004-2005 fiscal years, there is appropriated from the

1 Escheat Fund to the Department of Administration the amount of three million seven
2 hundred twenty-eight thousand three hundred twenty-four dollars (\$3,728,324).

3 4 **PART XIX. OFFICE OF THE STATE AUDITOR**

5
6 Requested by: Senators Swindell, Garrou, Dalton, Hagan

7 **SMART START AUDITS**

8 **SECTION 19.1.** G.S. 143B-168.14(b) reads as rewritten:

9 "(b) Each local partnership shall be subject to audit and review by the State
10 Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor
11 shall conduct annual financial and compliance audits of ~~the~~ local
12 partnerships-partnerships that are rated "needs improvement" in performance
13 assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated
14 "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-
15 168.12(a)(7) shall undergo biennial financial and compliance audits by the State
16 Auditor."

17 18 **PART XIX-B. GENERAL ASSEMBLY**

19
20 Requested by: Senators Dalton, Garrou, Hagan, Swindell

21 **LEGISLATIVE FOOD SERVICE DONATE FOOD**

22 **SECTION 19B.1.** The General Assembly food service shall on a daily basis
23 donate to a nonprofit organization food that would otherwise be discarded.

24 25 **PART XX. OFFICE OF THE GOVERNOR**

26
27 Requested by: Senators Swindell, Garrou, Dalton, Hagan

28 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

29 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
30 Agency for the federal HOME Program shall be used to match federal funds
31 appropriated for the HOME Program. In allocating State funds appropriated to match
32 federal HOME Program funds, the Agency shall give priority to HOME Program
33 projects, as follows:

- 34 (1) First priority to projects that are located in counties designated as Tier
35 One, Tier Two, or Tier Three Enterprise Counties under G.S.
36 105-129.3; and
- 37 (2) Second priority to projects that benefit persons and families whose
38 incomes are fifty percent (50%) or less of the median family income
39 for the local area, with adjustments for family size, according to the
40 latest figures available from the United States Department of Housing
41 and Urban Development.

42 The Housing Finance Agency shall report to the Joint Legislative
43 Commission on Governmental Operations by April 1 of each year concerning the status
44 of the HOME Program and shall include in the report information on priorities met,
45 types of activities funded, and types of activities not funded.

46 **SECTION 20.1.(b)** If the United States Congress changes the HOME
47 Program such that matching funds are not required for a given program year, then the
48 Agency shall not spend the matching funds appropriated under this act for that program
49 year.

50 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
51 Program funds shall not revert to the General Fund on June 30, 2004, or on June 30,
52 2005.

53 54 **PART XXI. INFORMATION TECHNOLOGY**

1 Requested by: Senators Swindell, Garrou, Dalton, Hagan

2 **IT LEGACY SYSTEMS AND IT EFFICIENCIES STUDIES AND ITS BUDGET**
3 **STRUCTURE REVIEW/REPORT**

4 **SECTION 21.1.(a)** The Office of Information Technology Services (ITS)
5 shall analyze the State's legacy information technology systems and develop a plan to
6 ascertain the needs, costs, and time frame required for State agencies to progress to
7 more modern information technology systems. In conducting this legacy system
8 assessment and analysis, ITS shall:

- 9 (1) Examine the hierarchical structure and interrelated relationships within
10 and between State agency legacy systems.
- 11 (2) Catalog and analyze the portfolio of legacy applications in use in State
12 agencies and consider the extent to which new applications could be
13 used concurrently with, or should replace, legacy systems.
- 14 (3) Consider issues related to migration from legacy environments to
15 Internet-based and client/server environments and related to the
16 availability of programmers and other information technology
17 professionals with the skills to migrate legacy applications to other
18 environments.
- 19 (4) Study any other issue relative to the assessment of legacy information
20 technology systems in State agencies, except that the analysis shall not
21 include matters within the purview of the studies authorized in S.L.
22 2001-491 or S.L. 2002-126.

23 State departments, agencies, and institutions shall give to ITS all information and all
24 data within their possession, or ascertainable from their records, that ITS deems
25 necessary to carry out the analysis.

26 By March 1, 2004, ITS shall complete the analysis and shall make a report of
27 the assessment to the Information Resources Management Commission (IRMC), the
28 Joint Legislative Commission on Governmental Operations, and the Joint Select
29 Committee on Information Technology.

30 **SECTION 21.1.(b)** The Office of State Budget and Management (OSBM)
31 shall conduct a study of information technology (IT) expenditures across all of State
32 government, with focused attention to identification and elimination of duplicative IT
33 expenditures, operations, and inventory, to identify and recommend potential cost
34 savings and efficiencies in State agency IT operations. In this study, OSBM should
35 address the following questions:

- 36 (1) Is State government's IT budgeting and organizational structure the
37 most efficient approach?
- 38 (2) What alternative IT budgeting and organizational structures could help
39 North Carolina realize cost savings?

40 OSBM shall work in conjunction with ITS and the IRMC to study the ITS
41 and the IRMC budget structures. As part of this study, OSBM shall prepare at least
42 three alternative budget transition plans for ITS and IRMC. Two of the transition plans
43 shall, at minimum, address the feasibility of (i) making portions or all of the ITS and the
44 IRMC budgets General Fund appropriations and including a proposal for how a nontax
45 revenue source to reimburse the General Fund for appropriations could be made from
46 agency receipts for ITS services utilized and (ii) maintaining ITS and IRMC budgets as
47 Internal Service Funds, but having the budgets approved by the Office of State Budget
48 and Management and the General Assembly instead of being approved by the IRMC as
49 they are currently.

50 By April 1, 2004, OSBM shall make reports on these matters to the Joint
51 Legislative Commission on Governmental Operations, the Chairs of the Joint
52 Appropriations Subcommittee on General Government, and the Fiscal Research
53 Division.

54 **PART XXII. DEPARTMENT OF INSURANCE**
55

1
2 Requested by: Senators Swindell, Garrou, Dalton, Hagan

3 **INSURANCE FUND TRANSFER TO GENERAL FUND**

4 **SECTION 22.1.** The Commissioner of Insurance shall transfer funds
5 quarterly from the Department of Insurance Fund to the General Fund to repay the funds
6 appropriated to the Department of Insurance from the General Fund for each fiscal year,
7 plus accrued interest at a rate determined by the State Treasurer.
8

9 Requested by: Senators Swindell, Garrou, Dalton, Hagan

10 **EXTEND THE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE**
11 **DEPARTMENT OF INSURANCE THROUGH THE INSURANCE**
12 **REGULATORY FUND**

13 **SECTION 22.2.** Section 12 of S.L. 2002-144 reads as rewritten:

14 "SECTION 12. This act becomes effective July 1, 2002. Sections 1 through 8 of this
15 act expire ~~June 30, 2003.~~ June 30, 2004."
16

17 **PART XXIII. DEPARTMENT OF REVENUE**
18

19 Requested by: Senators Swindell, Garrou, Dalton, Hagan

20 **DOR TAXPAYER TELECOMMUNICATIONS SERVICE**

21 **SECTION 23.1.** Section 22.6 of S.L. 2002-126 reads as rewritten:

22 "~~SECTION 22.6.(a) The Department of Revenue may draw up to seven million~~
23 ~~eight hundred forty thousand five hundred thirteen dollars (\$7,840,513) through June~~
24 ~~30, 2004. There is appropriated from the collection assistance fee account created in~~
25 ~~G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred~~
26 ~~twenty-two thousand eight hundred ninety-six dollars (\$1,622,896) for the 2003-2004~~
27 ~~fiscal year and the sum of two million one hundred fifty-four thousand five hundred~~
28 ~~ninety-three dollars (\$2,154,593) for the 2004-2005 fiscal year in order to pay for the~~
29 ~~costs of establishing and equipping a central taxpayer telecommunications service~~
30 ~~center for collections and assistance and for the costs associated with aligning local field~~
31 ~~offices with the new center.~~

32 "~~SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint~~
33 ~~Legislative Commission on Governmental Operations on a detailed plan with proposed~~
34 ~~costs before any funds may be expended for these purposes. This plan must be~~
35 ~~presented by October 31, 2002.~~

36 "**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter
37 following completion of the projects described in subsection (a) of this section, the
38 Department of Revenue must report quarterly to the Joint Legislative Commission on
39 Governmental Operations on the use of the funds and the progress of establishing the
40 new center."
41

42 Requested by: Senators Swindell, Garrou, Dalton, Hagan

43 **CERTAIN DOR POSITIONS FEE-SUPPORTED**

44 **SECTION 23.2.** There is appropriated from the collection assistance fee
45 account created in G.S. 105-243.1 to the Department of Revenue the sum of five
46 hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2003-2004
47 fiscal year and the sum of five hundred thirty-one thousand five hundred twelve dollars
48 (\$531,512) for the 2004-2005 fiscal year for salary and related fringe benefits for the
49 following positions formerly supported from the General Fund:

- 50 Position No. 4784-0000-0076-621 - Revenue Officer II
51 Position No. 4784-0000-0076-622 - Revenue Officer II
52 Position No. 4784-0000-0076-636 - Revenue Officer I
53 Position No. 4784-0000-0076-637 - Revenue Officer I
54 Position No. 4784-0000-0076-638 - Revenue Officer I
55 Position No. 4784-0000-0076-639 - Revenue Officer I

1 Position No. 4784-0000-0076-640 - Revenue Officer I
2 Position No. 4784-0000-0076-641 - Revenue Officer I
3 Position No. 4784-0000-0076-642 - Revenue Officer I
4 Position No. 4784-0000-0076-643 - Revenue Officer I
5 Position No. 4784-0000-0076-644 - Revenue Officer I
6 Position No. 4784-0000-0076-645 - Revenue Officer I
7 Position No. 4784-0000-0076-647 - Revenue Officer I

8
9 Requested by: Senators Swindell, Garrou, Dalton, Hagan

10 **DOR TAXPAYER CALL CENTER FUND CODE**

11 **SECTION 23.3.** Funds appropriated to the Department of Revenue for a
12 central taxpayer telecommunications service center for collections and assistance shall
13 be transferred to a separate, receipts-supported Fund Code in the Department's budget.
14 The Fund Code number is 1662.

15
16 Requested by: Senators Swindell, Garrou, Dalton, Hagan

17 **DOR REPORT ON PROJECT COMPLIANCE**

18 **SECTION 23.4.** The Department of Revenue must report to the Joint
19 Legislative Commission on Governmental Operations and to the Revenue Laws Study
20 Committee on its efforts to address abuse of the voluntary tax compliance system,
21 including fraudulent activity, which has resulted in undercollections. Reports must be
22 submitted quarterly beginning February 1, 2004, through July 30, 2006. Each report
23 must include a breakdown of the Department's additional initiatives resulting directly
24 from the Project Compliance funding provided for the 2003-2005 fiscal biennium. The
25 report must itemize additional collections by type of tax as compared to an objectively
26 determined baseline of collections resulting from preexisting collection activities. Each
27 report must also include a long-term plan, a time line for implementing each step of the
28 plan, a summary of steps taken since the last report and their results, and any other data
29 requested by the Commission or the Committee.

30
31 **PART XXIV. SECRETARY OF STATE**

32
33 Requested by: Senators Swindell, Garrou, Dalton, Hagan

34 **STUDY OF THE FEASIBILITY OF TRANSFERRING THE CONSULTATION**
35 **REQUIREMENT FROM THE BUSINESS LICENSE INFORMATION**
36 **OFFICE TO THE SMALL BUSINESS CENTERS**

37 **SECTION 24.1.(a)** The Department of the Secretary of State (Department)
38 and the North Carolina Community College System (System) shall study the feasibility
39 of transferring the consultation function of the Business License Information Office
40 (BLIO) in the Department to the Small Business Centers that are located within each of
41 the community colleges in the System. The study shall consider the feasibility of the
42 following:

- 43 (1) Establishing a Statewide Coordinator position that will develop and
44 maintain a web-based master application system of all State licensing
45 and regulatory requirements.
- 46 (2) Developing and maintaining a web-based master application system of
47 all State licensing and regulatory requirements.
- 48 (3) Training the Small Business Center employees to provide the
49 consultation function to their clients.
- 50 (4) Providing public access to the web-based master application system.

51 **SECTION 24.1.(b)** The Department and the System shall present their
52 findings and recommendations to the Joint Legislative Commission on Governmental
53 Operations and to the Chairs of the Senate and House of Representatives Appropriations
54 Committees by January 1, 2004.

1 Requested by: Senators Swindell, Garrou, Dalton, Hagan

2 **PUBLICATION OF NORTH CAROLINA MANUAL**

3 **SECTION 24.2.** The Department of the Secretary of State shall support the
4 publication of the North Carolina Manual with receipts from sales of the manual when
5 budgeting for the 2005-2007 biennium. The Department shall consider the feasibility of
6 providing the manual by Internet.

7
8 **PART XXV. STATE BOARD OF ELECTIONS**

9
10 Requested by: Senators Swindell, Garrou, Dalton, Hagan

11 **HELP AMERICA VOTE ACT MATCHING FUNDS**

12 **SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections
13 for the 2003-2004 fiscal year by Section 2.1 of this act:

- 14 (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the
15 Maintenance of Effort requirements of section 254(a)(7) of the Help
16 America Vote Act, Public Law 107-252.
- 17 (2) The sum of \$1,665,650 currently appropriated to Fund 1100
18 Administration for the SEIMS RCC is transferred to a Reserve Fund
19 for the State Board of Elections.
- 20 (3) The sum of \$2,524,400 is transferred to the Election Fund established
21 by S.L. 2003-12 to meet the five percent (5%) matching requirement
22 of Title II Help America Vote Act, Public Law 107-252. It is estimated
23 that the amount needed for the 2003-2004 fiscal year will be
24 \$1,130,000. The funds shall be available only for matching federal
25 funds under HAVA for the 2003-2004, 2004-2005, and 2005-2006
26 fiscal years. The money shall only be expended as federal funds are
27 available to match, and if the amount available to the State is less than
28 projected, the unexpended remainder of the \$2,524,400 shall revert to
29 the General Fund on the earlier of:
- 30 a. June 30, 2006; or
- 31 b. A determination by the Office of State Budget and Management
32 that the unexpended remainder will not be needed.

33 **SECTION 25.1.(b)** The 107th Congress established the Help America Vote
34 Act (HAVA) as Public Law 107-252 establishing a program to assist in the
35 administration of Federal elections and provide assistance with the administration of
36 certain Federal elections laws and programs; establish minimum election administration
37 standards for States and units of local government with the responsibility for the
38 administration of Federal elections. In HAVA, Congress authorized appropriations for
39 elections assistance in the form of a matching grant program (Title II of HAVA,
40 Requirements Payments) for which states are required as one condition of the Election
41 Assistance Requirements Payments to match federal allocations with a five percent
42 (5%) match of State dollars. The federal government has additional requirements,
43 including a required state plan and a stipulation for each participating state to implement
44 the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA.
45 The MOE requires that the state maintain the expenditures of the state for activities
46 funded by the payment at a level that is not less than the level of such expenditures
47 maintained by the state for the fiscal year ending prior to November 2000. Congress
48 authorized up to \$1.4 billion for Requirements Payments, and \$810 million for Title II
49 requirements grants was funded for fiscal year 2003. Title II requirements funding has
50 not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently
51 proposed at \$500 million for each year.

52 Based upon the 2003 approved funding, it is estimated that North Carolina
53 will receive \$22.6 million of the Title II funding if North Carolina meets all the
54 conditions of the Election Assistance program, including not only the five percent (5%)
55 state match but also maintenance of its expenditure level on HAVA activities at the

1 expense level the State Board of Elections had in State fiscal year 1999-2000. Actual
2 expenditures for the State Elections Information Management System (SEIMS), which
3 is a qualified HAVA activity, in 1999-2000 was three million four hundred fifty-seven
4 thousand five hundred eighty-five dollars and six cents (\$3,457,585.06). The authorized
5 expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six
6 hundred sixty-five thousand six hundred fifty dollars (\$1,665,650). The difference in
7 expenditure levels is one million seven hundred ninety-one thousand nine hundred
8 thirty-five dollars and six cents (\$1,791,935.06). To meet HAVA's Title II MOE
9 requirement, North Carolina has to appropriate from its General Fund to a Reserve on a
10 recurring basis (or for as long as Congress requires the MOE as a condition of states'
11 being eligible to receive Requirements Payments), the amount of three million four
12 hundred fifty-seven thousand five hundred eighty-five dollars and six cents
13 (\$3,457,585.06) annually.

14 For the State to meet its obligatory five percent (5%) match for HAVA's Title
15 II Requirements Payment, North Carolina has to match twenty-two million six hundred
16 thousand dollars (\$22,600,000) estimated federal funds in 2003-2004; thirteen million
17 nine hundred forty-four thousand dollars (\$13,944,000) estimated federal funds in both
18 2004-2005 and 2005-2006. The State's match is one million one hundred thirty thousand
19 dollars (\$1,130,000) in 2003-2004; six hundred ninety-seven thousand two hundred
20 dollars (\$697,200) in 2004-2005 and six hundred ninety-seven thousand two hundred
21 dollars (\$697,200) in 2005-2006. The nonrecurring match total required from the
22 General Fund is two million five hundred twenty-four thousand four hundred dollars
23 (\$2,524,400).

24 25 **PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT**

26
27 Requested by: Senators Garrou, Swindell, Dalton, Hagan
28 **NC HUMANITIES COUNCIL**

29 **SECTION 26.1.** The North Carolina Humanities Council shall:

- 30 (1) By January 15, 2004, and more frequently as requested, report to the
31 Joint Legislative Commission on Governmental Operations and the
32 Fiscal Research Division the following information:
33 a. State fiscal year 2002-2003 program activities, objectives, and
34 accomplishments;
35 b. State fiscal year 2002-2003 itemized expenditures and fund
36 sources;
37 c. State fiscal year 2003-2004 planned activities, objectives, and
38 accomplishments including actual results through December 31,
39 2003; and
40 d. State fiscal year 2003-2004 estimated itemized expenditures
41 and fund sources including actual expenditures and fund
42 sources through December 31, 2003.
43 (2) Provide to the Fiscal Research Division a copy of the organization's
44 annual audited financial statement within 30 days of issuance of the
45 statement.
46

47 **PART XXVII. OFFICE OF THE STATE CONTROLLER**

48
49 Requested by: Senators Swindell, Garrou, Dalton, Hagan
50 **OVERPAYMENTS AUDIT**

51 **SECTION 27.1.(a)** During the 2003-2004 fiscal year, receipts generated by
52 the collection of inadvertent overpayments by State agencies to vendors as a result of
53 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
54 refunds, erroneously paid excise taxes, and related errors as required by G.S.
55 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

1 **SECTION 27.1.(b)** For the 2003-2004 fiscal year, two hundred thousand
2 dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172
3 shall be used by the Office of the State Controller for data processing, debt collection,
4 or e-commerce costs.

5 **SECTION 27.1.(c)** All funds available in the Special Reserve Account
6 24172 on July 1, 2003, are transferred to the General Fund on that date.

7 **SECTION 27.1.(d)** Any unobligated funds in the Special Reserve Account
8 24172 that are realized above the allowance in subsection (b) of this section are subject
9 to appropriation by the General Assembly in the 2004 Regular Session of the 2003
10 General Assembly.

11 **SECTION 27.1.(e)** The State Controller shall report quarterly to the Joint
12 Legislative Commission on Governmental Operations and the Fiscal Research Division
13 on the revenue deposited into the Special Reserve Account and the disbursement of that
14 revenue.

15 16 **PART XXVIII. DEPARTMENT OF THE STATE TREASURER**

17
18 Requested by: Senators Swindell, Garrou, Dalton, Hagan

19 **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE** 20 **ENHANCEMENTS**

21 **SECTION 28.3.** The Department of the State Treasurer shall report to the
22 Joint Legislative Commission on Governmental Operations and to the Chairs of the
23 Appropriations Committees for the Senate and the House of Representatives on the
24 status of the replacement of the multitude of information technology systems with an
25 integrated system for all the retirement plans and other programs administered by the
26 Retirement Systems Division. The Department shall report semiannually by October 1
27 and April 1 until the enhancements are fully implemented.

28
29 Requested by: Senators Swindell, Garrou, Dalton, Hagan

30 **STAFFING ANALYSIS FOLLOW-UP**

31 **SECTION 28.4.(a)** The Office of State Budget and Management shall
32 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in
33 April 2003 on the Retirement Systems Division within the Department of State
34 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain
35 appropriate. The semiannual analyses shall be conducted throughout the implementation
36 of the enhancements to the information technology infrastructure within the Retirement
37 Systems Division that were authorized by this act. The follow-up analyses shall also
38 continue for a reasonable time after the completion of the enhancements to ensure that
39 the staffing levels are adjusted based on the increased efficiency provided by the
40 enhancements.

41 **SECTION 28.4.(b)** The Retirement Systems Division shall maintain
42 monthly workload statistics and productivity data for the various functions within the
43 Division. The Department of State Treasurer shall report the workload statistics and
44 productivity data to the Fiscal Research Division and to the Office of State Budget and
45 Management on a quarterly basis.

46 47 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

48
49 Requested by: Senators Gulley, Garrou, Dalton, Hagan

50 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND** 51 **APPROPRIATIONS**

52 **SECTION 29.1.(a).** The General Assembly authorizes and certifies
53 anticipated revenues of the Highway Fund as follows:

54 For Fiscal Year 2005-2006	\$1,409.2 Million
55 For Fiscal Year 2006-2007	\$1,458.9 Million

1	For Fiscal Year 2007-2008	\$1,509.4 Million
2	For Fiscal Year 2008-2009	\$1,558.8 Million
3	SECTION 29.1.(b) The General Assembly authorizes and certifies	
4	anticipated revenues of the Highway Trust Fund as follows:	
5	For Fiscal Year 2005-2006	\$1,096.3 Million
6	For Fiscal Year 2006-2007	\$1,148.0 Million
7	For Fiscal Year 2007-2008	\$1,202.6 Million
8	For Fiscal Year 2008-2009	\$1,252.4 Million
9		

10 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Jenkins, Hargett

11 **SMALL URBAN CONTINGENCY FUNDS**

12 **SECTION 29.2.** Of the funds appropriated in this act to the Department of
13 Transportation:

- 14 (1) Twenty-eight million dollars (\$28,000,000) in fiscal year 2003-2004
15 and fourteen million dollars (\$14,000,000) in fiscal year 2004-2005
16 shall be allocated for small urban construction projects. These funds
17 shall be allocated equally in each fiscal year of the biennium among
18 the 14 Highway Divisions for the small urban construction program
19 for small construction projects that are located within the area covered
20 by a two-mile radius of the municipal corporate limits.
- 21 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2003-2004 and ten
22 million dollars (\$10,000,000) in fiscal year 2004-2005 shall be used
23 statewide for rural or small urban highway improvements and related
24 transportation enhancements to public roads and public facilities,
25 industrial access roads, and spot safety projects as approved by the
26 Secretary of Transportation.

27 None of these funds used for rural secondary road construction are subject to
28 the county allocation formulas in G.S. 136-44.5(b) and (c).

29 These funds are not subject to G.S. 136-44.7.

30 The Department of Transportation shall report to the members of the General
31 Assembly on projects funded pursuant to this section in each member's district prior to
32 the Board of Transportation's action. The Department shall make a quarterly
33 comprehensive report on the use of these funds to the Joint Legislative Transportation
34 Oversight Committee and the Fiscal Research Division.

35
36 Requested by: Senators Gulley, Garrou, Dalton, Hagan

37 **REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION**

38 **SECTION 29.4.** G.S. 136-176(b) reads as rewritten:

39 "(b) Funds in the Trust Fund are annually appropriated to the Department of
40 Transportation to be allocated and used as provided in this subsection. A sum, not to
41 exceed ~~four and one half percent (4.5%)~~ four percent (4%) of the amount of revenue
42 deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this ~~section,~~
43 section for the 2003-2004 fiscal year and three and eight-tenths percent (3.8%)
44 thereafter, may be used each fiscal year by the Department for expenses to administer
45 the Trust Fund. Operation and project development costs of the North Carolina
46 Turnpike Authority are eligible administrative expenses under this subsection. Any
47 funds allocated to the Authority pursuant to this subsection shall be repaid by the
48 Authority from its toll revenue as soon as possible, subject to any restrictions included
49 in the agreements entered into by the Authority in connection with the issuance of the
50 Authority's revenue bonds. Beginning one year after the Authority begins collecting
51 tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed
52 to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield
53 on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest
54 earned on the unpaid balance shall be deposited in the Highway Trust Fund upon

1 repayment. The rest of the funds in the Trust Fund shall be allocated and used as
2 follows:

- 3 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,
4 and construct the projects of the Intrastate System described in G.S.
5 136-179 and to pay debt service on highway bonds and notes that are
6 issued under the State Highway Bond Act of 1996 and whose proceeds
7 are applied to these projects.
8 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and
9 construct the urban loops described in G.S. 136-180 and to pay debt
10 service on highway bonds and notes that are issued under the State
11 Highway Bond Act of 1996 and whose proceeds are applied to these
12 urban loops.
13 (3) Six and one-half percent (6.5%) to supplement the appropriation to
14 cities for city streets under G.S. 136-181.
15 (4) Six and one-half percent (6.5%) for secondary road construction as
16 provided in G.S. 136-182 and to pay debt service on highway bonds
17 and notes that are issued under the State Highway Bond Act of 1996
18 and whose proceeds are applied to secondary road construction.

19 The Department must administer funds allocated under subdivisions (1), (2), and (4)
20 of this subsection in a manner that ensures that sufficient funds are available to make
21 the debt service payments on bonds issued under the State Highway Bond Act of 1996
22 as they become due."
23

24 Requested by: Senators Gulley, Garrou, Dalton, Hagan

25 **USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS**

26 **SECTION 29.5.** Funds generated by overweight/oversize permit fees in
27 excess of the cost of administering the program, as determined pursuant to G.S.
28 20-119(e), shall be used for highway and bridge maintenance required as a result of
29 damages caused from overweight/oversize loads.
30

31 Requested by: Senators Reeves, Garrou, Dalton, Hagan

32 **DEPARTMENT OF TRANSPORTATION MAY NOT DEVELOP THE**
33 **I-40/DURALEIGH ROAD CONNECTOR**

34 **SECTION 29.9.** The Department of Transportation shall permanently
35 remove from all thoroughfare or other plans the proposed route commonly known as the
36 "Duraleigh Connector", adjacent to Umstead Park from the intersection of Interstate 40
37 to existing Duraleigh Road in northwestern Wake County, more precisely described in
38 Project U-2110 in the 1997-2003 Transportation Improvement Program.

39 The Department shall not expend any State or federal funds on feasibility
40 studies, planning, right-of-way acquisition, or construction on this route.
41

42 Requested by: Senators Gulley, Garrou, Dalton, Hagan

43 **FUNDS FOR REPAIR, RENOVATION, AND REPLACEMENT**

44 **SECTION 29.10.** The Department of Transportation may use funds not to
45 exceed one and eight-tenths percent (1.8%) of the funds appropriated in this act to the
46 Department for maintenance to repair, renovate, or replace facilities that fail to meet
47 safety standards or that are obsolete for current or future use. Prior to expending these
48 funds, the Department shall submit its proposed budget for these expenditures to the
49 Senate Appropriations Subcommittee on Department of Transportation, the House of
50 Representatives Appropriations Subcommittee on Transportation, and the Joint
51 Legislative Transportation Oversight Committee each year.
52

53 Requested by: Senators Gulley, Garrou, Dalton, Hagan

54 **MODIFY DESCRIPTION OF THE DURHAM NORTHERN LOOP AND**
55 **INTRASTATE IMPROVEMENT PROJECTS**

1 **SECTION 29.11.(a)** G.S. 136-180(a) reads as rewritten:
 2 "(a) Funds allocated from the Trust Fund for urban loops may be used only for the
 3 following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	<p>The corridor shall be identified as a part of the local long range transportation plan as mutually adopted in 2003 by the Durham Chapel Hill Carrboro metropolitan planning organization and the North Carolina Board of Transportation</p> <p><u>The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross-sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.</u></p> <p><u>(1) East end connector, from N.C. 147 to U.S. 70 East.</u></p>	Durham, Orange Wake

1		<u>(2) U.S. 70, from Lynn Rd. to</u>	
2		<u>the Northern Durham</u>	
3		<u>Parkway.</u>	
4		<u>(3) I-85, from U.S. 70 to Red</u>	
5		<u>Mill Rd.</u>	
6		<u>(4) Northern Durham</u>	
7		<u>Parkway, Section B, from Old</u>	
8		<u>Oxford Rd. to I-85.</u>	
9		<u>(5) Northern Durham</u>	
10		<u>Parkway, Section A, from</u>	
11		<u>I-85 to I-540.</u>	
12		<u>(6) Northern Durham</u>	
13		<u>Parkway, Section C, from Old</u>	
14		<u>Oxford Rd. to Roxboro Rd.</u>	
15		<u>(7) Roxboro Rd. from Duke</u>	
16		<u>St. to Goodwin Rd.</u>	
17	Greensboro Loop	Multilane facility on new	Guilford
18		location encircling City	
19		of Greensboro	
20	Raleigh Outer Loop	Multilane facility on	Wake
21		new location from US-1	
22		southwest of Cary	
23		northerly to US-64 in	
24		eastern Wake County	
25	Wilmington Bypass	Multilane facility on new	New Hanover
26		location from US-17	
27		northeast of Wilmington	
28		to US-17 southwest	
29		of Wilmington,	
30		including the Blue Clay Road	
31		interchange	
32	Winston-Salem	Multilane facility on	Forsyth
33	Northbelt	new location from I-40 west	
34		of Winston-Salem northerly	
35		to I-40 US-311/Future I-74	
36		in eastern Forsyth County"	

SECTION 29.11.(b) G.S. 136-179 reads as rewritten:

"§ 136-179. Projects of Intrastate System funded from Trust Fund.

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg
I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South	Vance, Franklin, Wake, Chatham, Lee,

1		Carolina Line	Moore, Richmond
2		(including 6-laning of	
3		Raleigh Beltline)	
4			
5	US-13	Connector <u>Connectors</u> from I-95	Cumberland
6		to NC-87	<u>Cumberland, Robeson</u>
7			
8	US-13	Complete 4-laning from	Gates, Hertford,
9		Virginia Line to US-17	Bertie
10			
11	US-17	Complete 4-laning from	Camden, Pasquotank,
12		Virginia Line to South	Perquimans, Chowan,
13		Carolina Line (including	Bertie, Martin,
14		Washington, New Bern,	Beaufort, Craven,
15		and Jacksonville	Jones, Onslow,
16		Bypasses)	Pender, New Hanover,
17			Brunswick
18			
19	US-19/ US-19E	Complete 4-laning from	Madison, Yancey,
20		US-23 to NC 194 in	Mitchell, Avery
21		Ingalls	
22			
23	US-19	Complete 4-laning	Cherokee, Macon,
24			Swain
25			
26	US-23	Complete 4-laning and	Madison, Buncombe
27		upgrading existing	
28		4-lanes from Tennessee	
29		Line to I-240	
30			
31	US-23-441	Complete 4-laning from	Macon
32		US-19/US-74 to Georgia	
33		Line	
34			
35	US-52	Complete 4-laning from	Surry, Davidson
36		I-77 to Lexington	
37		(including new I-77	
38		Connector)	
39			
40	US-64	Complete 4-laning from	Edgecombe, Pitt,
41		Raleigh to Coast	Martin, Washington,
42		(including freeway	Tyrrell, Dare
43		construction from I-95	
44		to US-17)	
45			
46	US-64	Complete 4-laning from	Davidson, Randolph,
47		Lexington to Raleigh	Chatham, Wake
48			
49	US-70	Complete 4-laning from	Wake, Johnston,
50		Raleigh to Morehead City	Wayne, Lenoir,
51		(including Clayton,	Craven
52		Goldsboro, Kinston,	
53		Smithfield-Selma, and	
54		Havelock Bypasses	
55		predominately freeways	

1		on predominately new	
2		locations)	
3			
4	US-74	Complete 4-laning from	Mecklenburg, Union,
5		Charlotte to US-17	Richmond, Robeson,
6		(including multilaning	Columbus
7		of Independence Blvd. in	
8		Charlotte, and Bypasses	
9		of Monroe, Rockingham,	
10		and Hamlet)	
11			
12	US-74	Complete 4-laning from	Polk, Rutherford
13		I-26 to I-85	
14			
15	US-158	Complete 4-laning	Forsyth, Guilford,
16		from Winston-Salem	Rockingham, Caswell,
17		to Whalebone	Person, Granville,
18			Vance, Warren,
19			Halifax,
20			Northampton, Gates,
21			Hertford,
22			Pasquotank, Camden,
23			Currituck, Dare
24			
25		New bridge over	Currituck
26		Currituck Sound	
27			
28	US-221	Complete 4-laning from	Avery, McDowell,
29		Linville to South	Rutherford
30		Carolina	
31			
32	US-220	Complete 4-laning from	Guilford, Randolph,
33		I-40 to US-1	Montgomery, Richmond
34			
35	US-220/NC-68	Complete 4-laning from	Rockingham, Guilford
36		Virginia Line to I-40	
37			
38	US-264	Complete 4-laning from	Wilson, Greene,
39		US-64 to Washington	Pitt
40		(including Wilson and	
41		Greenville Bypasses)	
42		(including freeway	
43		construction from I-95	
44		to Greenville)	
45			
46	US-321	Complete 4-laning from	Caldwell, Catawba,
47		Boone to South Carolina	Lincoln, Gaston
48		Line	
49			
50	US-421	Complete 4-laning from	Watauga, Wilkes,
51		Tennessee Line to I-40	Yadkin
52			
53	US-421	Complete 4-laning from	Chatham, Lee
54		Greensboro to Sanford	
55		(including Bypass of	

1		Sanford)	
2			
3	NC-24	Complete 4-laning from	Mecklenburg,
4		Charlotte to Morehead	Cabarrus, Stanly,
5		City	Montgomery, Moore,
6			Harnett, Cumberland,
7			Sampson, Duplin,
8			Onslow, Carteret
9			
10	NC-87	Complete 4-laning from	Lee, Harnett,
11		Sanford to US-74	Cumberland, Bladen,
12			Columbus
13			
14	NC-105	Complete 4-laning from	Watauga, Avery
15		Boone to Linville	
16			
17	NC-168	Complete multilaning	Currituck
18		from Virginia Line	
19		to US-158	
20			
21	NC-194	Complete 4-laning from	Avery
22		US-19E to US-221"	

SECTION 29.11.(c) This section is effective when it becomes law.

Requested by: Senators Gulley, Garrou, Dalton, Hagan

HIGHWAY TRUST FUND STUDY COMMITTEE

SECTION 29.12.(a) Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

SECTION 29.12.(b) Membership. – The Study Committee shall be composed of 20 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Five Representatives and four public members appointed by the Speaker of the House of Representatives.
- (3) Five Senators and four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

SECTION 29.12.(c) Duties of the Study Committee. – The Study Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.
- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.
- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement

1 Program, and does not impair the cash-flow provisions of G.S.
2 136-176(a1).

- 3 (6) The feasibility of altering the funding allocation structure of the
4 Highway Trust Fund, including the possible use of the Highway Trust
5 Fund to provide the State match for available federal aid highway
6 funds as long as using the funds in this manner does not delay projects
7 already funded by the Highway Trust Fund, projects scheduled under
8 the 2002-2008 Transportation Improvement Program, and does not
9 impair the cash-flow provisions of G.S. 136-176(a1).

- 10 (7) Any other issue related to the Highway Trust Fund or transportation
11 funding.

12 **SECTION 29.12.(d)** Vacancies. – The appointing authority shall fill any
13 vacancy on the Study Committee.

14 **SECTION 29.12.(e)** Cochairs. – The Cochairs of the Study Committee shall
15 be the cochairs of the Joint Legislative Transportation Oversight Committee. The Study
16 Committee shall meet upon the call of the Cochairs. A quorum of the Study Committee
17 shall be nine members.

18 **SECTION 29.12.(f)** Expenses of Members. – Members of the Study
19 Committee shall receive per diem, subsistence, and travel allowances in accordance
20 with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

21 **SECTION 29.12.(g)** Staff. – The Legislative Services Office shall assign
22 professional and clerical staff to the assist the Study Committee in its work.

23 **SECTION 29.12.(h)** Consultants. – The Study Committee may hire
24 consultants to examine specific issues and subjects related to the study, in accordance
25 with G.S. 120-32.02.

26 **SECTION 29.12.(i)** Meetings During Legislative Session. – The Study
27 Committee may meet during a regular or extra session of the General Assembly.

28 **SECTION 29.12.(j)** Meeting Location. – The Study Committee may meet at
29 various locations around the State in order to promote greater public participation in its
30 deliberations. The Legislative Services Commission shall grant adequate meeting space
31 to the Study Committee in the State Legislative Building or the Legislative Office
32 Building.

33 **SECTION 29.12.(k)** Report. – The Study Committee may make interim
34 reports and shall make a final report to the Joint Legislative Transportation Oversight
35 Committee no later than November 1, 2004. Regardless of whether it has filed an
36 interim or final report, the Committee shall terminate on November 1, 2004.

37 **SECTION 29.12.(l)** Funding. – The Study Committee shall be funded from
38 funds available to the Joint Legislative Transportation Oversight Committee, in
39 accordance with G.S. 120-70.52.

40 **SECTION 29.12.(m)** This section is effective when it becomes law.

41
42 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Rand, Thomas, Kerr,
43 Hargett

44 **WAIVE 1/3 OF THE MILITARY BASE GAS TAX**

45 **SECTION 29.13.(a)** Part 7 of Article 36C of Chapter 105 of the General
46 Statutes is amended by adding a new section to read:

47 **"§ 105-449.128. Distribution of part of Highway Fund allocation to military**
48 **installations.**

49 (a) Distribution. – The Secretary must annually distribute to the morale, welfare,
50 and recreation program of each military installation located in this State an amount
51 equal to the amount of motor fuel sold by exchange service stations within that military
52 installation during the previous fiscal year, as reported pursuant to subsection (c) of this
53 section, multiplied by the distribution rate. The Secretary must make this distribution
54 within 90 days after the morale, welfare, and recreation program submits a timely
55 report.

1 (b) Rate. – The distribution rate is one-third of the sum of the flat
2 cents-per-gallon rate in effect during the year for which the distribution is made and the
3 average of the two variable cents-per-gallon rates in effect during that year.

4 (c) Report. – The morale, welfare, and recreation program of each military
5 installation in this State must report to the Secretary by October 15 of each year the
6 amount of motor fuel sold by exchange service stations within that military installation
7 during the previous fiscal year. The report must be in the form required by the
8 Secretary. No distribution will be made for reports filed after the due date.

9 (d) Use. – Funds distributed to a morale, welfare, and recreation program under
10 this section must be used only for community services and other expenditures to
11 improve quality-of-life programs for military members and their families in North
12 Carolina."

13 **SECTION 29.13.(b)** G.S. 105-449.62 reads as rewritten:

14 **"§ 105-449.62. Nature of tax.**

15 This Article imposes a tax on motor fuel to provide revenue for the State's
16 transportation ~~needs and needs~~, for the other purposes listed in Part 7 of this
17 ~~Article~~. Article, and for the purposes provided in G.S. 105-449.128. The tax is collected
18 from the supplier or importer of the fuel because this method is the most efficient way
19 to collect the tax. The tax is designed, however, to be paid ultimately by the person who
20 consumes the fuel. The tax becomes a part of the cost of the fuel and is consequently
21 paid by those who subsequently purchase and consume the fuel."

22 **SECTION 29.13.(c)** This act becomes effective July 1, 2004, and applies to
23 motor fuel sold on or after that date. The first reports under G.S. 105-449.128, as
24 enacted by this act, are due by October 14, 2005.

25
26 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Clodfelter

27 **MPO/RTO TRANSPORTATION PLANNING FUNDING**

28 **SECTION 29.14.(a)** Of the funds allocated for Highway Trust Fund
29 Administration for the 2003-2004 fiscal year:

- 30 (1) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
31 used to fund the activities of Rural Transportation Planning
32 Organizations created pursuant to Article 17 of Chapter 136 of the
33 General Statutes;
34 (2) The sum of two million dollars (\$2,000,000) shall be used to
35 implement the provisions of subsection (b) of this section; and
36 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
37 used to implement the provisions of subsection (c) of this section.

38 **SECTION 29.14.(b)** Article 16 of Chapter 136 of the General Statutes is
39 amended by adding a new section to read:

40 **"§ 136-200.5. Matching funds for Metropolitan Planning Organizations located in**
41 **nonattainment areas or maintenance areas.**

42 (a) Application. – The lead planning agency for any Metropolitan Planning
43 Organization located in an area designated as a nonattainment or maintenance area
44 under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) may apply to the
45 Department of Transportation for funds to avoid a plan conformity lapse.

46 (b) Matching Required. – Funds provided under this section shall be matched
47 one-for-one by the local applicant agency.

48 (c) Use of Funds. – Funds provided under this section shall be used by the local
49 applicant agency only to avoid a plan conformity lapse.

50 (d) Limit on Funds. – The Department shall not provide more than one million
51 dollars (\$1,000,000) per fiscal year to any lead planning organization of a Metropolitan
52 Planning Organization pursuant to this section.

53 (e) Payback Required. – Any funds provided to a lead planning organization of a
54 Metropolitan Planning Organization under this section shall be repaid within five years.

1 either from local sources or as an offset against planning funds that might otherwise
 2 have been made available from the Department to the lead planning organization."

3 **SECTION 29.14.(c)** Article 16 of Chapter 136 of the General Statutes is
 4 amended by adding a new section to read:

5 **"§ 136-200.6. Funds for local transportation planning efforts in areas designated**
 6 **nonattainment areas or maintenance areas.**

7 (a) Application. – A regional transportation planning agency in an area
 8 designated as a nonattainment or maintenance area under the federal Clean Air Act
 9 (42 U.S.C. § 7401, et seq.) that has policy-setting authority for the entire designated
 10 area and that is representative of all local governments within the area, may apply to the
 11 Department of Transportation for funds to support local transportation planning efforts
 12 in that local government's region.

13 (b) Matching Required. – Funds provided under this section shall be matched
 14 one-for-one by the applicant agency.

15 (c) Use of Funds. – Funds provided under this section shall only be used by the
 16 local applicant agency to support regional transportation planning within the designated
 17 area.

18 (d) Local Staff Required. – Funds shall be provided under this section only if
 19 local governments in the designated area support and supply staff to the regional
 20 transportation planning agency.

21 (e) Limit on Funds. – The Department shall not provide more than five hundred
 22 thousand dollars (\$500,000) in any fiscal year to any agency pursuant to this section."

23
 24 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Jenkins, Thomas

25 **FERRY EMPLOYEE POSITIONS**

26 **SECTION 29.15.** The Ferry Division shall use funds available from
 27 increased toll revenues to convert a maximum of 38 temporary employees to permanent
 28 positions.

29
 30 Requested by: Senators Gulley, Garrou, Dalton, Hagan

31 **MOTORIST ASSISTANCE PROGRAM PERSONNEL**

32 **SECTION 29.16.** All full-time employees of the Interstate Motorist
 33 Assistance Program shall be designated as permanent employees.

34
 35 Requested by: Senator Hagan

36 **TRANSPORTATION SERVICES AND IMPROVEMENTS FOR TRADE**
 37 **SHOWS**

38 **SECTION 29.17.** The Department of Transportation may, from funds
 39 available, provide transportation services and improvements for annual or semiannual
 40 trade shows of international significance.

41
 42 **PART XXX. SALARIES AND EMPLOYEE BENEFITS**

43
 44 Requested by: Senators Garrou, Dalton, Hagan

45 **GOVERNOR AND COUNCIL OF STATE**

46 **SECTION 30.1.(a)** Effective July 1, 2003, G.S. 147-11(a) reads as
 47 rewritten:

48 "(a) The salary of the Governor shall be ~~one hundred eighteen thousand four~~
 49 ~~hundred thirty dollars (\$118,430)~~ one hundred twenty thousand five hundred
 50 seventy-four dollars (\$120,574) annually, payable monthly."

51 **SECTION 30.1.(b)** Effective July 1, 2003, the annual salaries for the
 52 members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005
 53 fiscal years are:

54 <u>Council of State</u>	<u>Annual Salary</u>
55 <u>Lieutenant Governor</u>	<u>\$ 106,415</u>

1	Attorney General	106,415
2	Secretary of State	106,415
3	State Treasurer	106,415
4	State Auditor	106,415
5	Superintendent of Public Instruction	106,415
6	Agriculture Commissioner	106,415
7	Insurance Commissioner	106,415
8	Labor Commissioner	106,415

9
10 Requested by: Senators Garrou, Dalton, Hagan

11 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

12 **SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual
13 salaries, payable monthly, for the nonelected heads of the principal State departments
14 for the 2003-2004 and 2004-2005 fiscal years are:

15	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
16	Secretary of Administration	\$ 103,967
17	Secretary of Correction	103,967
18	Secretary of Crime Control and Public Safety	103,967
19	Secretary of Cultural Resources	103,967
20	Secretary of Commerce	103,967
21	Secretary of Environment and Natural Resources	103,967
22	Secretary of Health and Human Services	103,967
23	Secretary of Juvenile Justice and Delinquency Prevention	103,967
24	Secretary of Revenue	103,967
25	Secretary of Transportation	103,967

26
27 Requested by: Senators Garrou, Dalton, Hagan

28 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

29 **SECTION 30.3.** Effective July 1, 2003, the annual salaries, payable
30 monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive
31 branch officials are:

32	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
33	Chairman, Alcoholic Beverage Control Commission	\$ 94,628
34	State Controller	132,432
35	Commissioner of Motor Vehicles	94,628
36	Commissioner of Banks	106,415
37	Chairman, Employment Security Commission	132,264
38	State Personnel Director	103,967
39	Chairman, Parole Commission	86,407
40	Members of the Parole Commission	79,774
41	Chairman, Utilities Commission	118,512
42	Members of the Utilities Commission	106,415
43	Executive Director, Agency for Public Telecommunications	79,774
44	General Manager, Ports Railway Commission	72,036
45	Director, Museum of Art	96,964
46	Executive Director, North Carolina Housing Finance Agency	117,113
47	Executive Director, North Carolina Agricultural Finance Authority	92,108
48	State Chief Information Officer	132,353

49
50 Requested by: Senators Garrou, Dalton, Hagan

51 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASE**

52 **SECTION 30.4.(a)** Effective July 1, 2003, the annual salaries, payable
53 monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal
54 years are:

55	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
----	----------------------------------	----------------------

1		
2	Chief Justice, Supreme Court	\$ 120,574
3	Associate Justice, Supreme Court	117,424
4	Chief Judge, Court of Appeals	114,487
5	Judge, Court of Appeals	112,531
6	Judge, Senior Regular Resident Superior Court	109,473
7	Judge, Superior Court	106,415
8	Chief Judge, District Court	96,630
9	Judge, District Court	93,573
10	Administrative Officer of the Courts	109,473
11	Assistant Administrative Officer of the Courts	99,994

12 **SECTION 30.4.(b)** The district attorney or public defender of a judicial
 13 district, with the approval of the Administrative Officer of the Courts or the
 14 Commission on Indigent Defense Services, respectively, shall set the salaries of
 15 assistant district attorneys or assistant public defenders, respectively, in that district such
 16 that the average salaries of assistant district attorneys or assistant public defenders in
 17 that district do not exceed sixty-one thousand two hundred eighty dollars (\$61,280) and
 18 the minimum salary of any assistant district attorney or assistant public defender is at
 19 least thirty-one thousand five hundred ninety-seven dollars (\$31,597) effective July 1,
 20 2003.

21 **SECTION 30.4.(c)** Effective July 1, 2003, the salaries in effect for the
 22 2003-2004 and 2004-2005 fiscal years for permanent, full-time employees of the
 23 Judicial Department, except for those whose salaries are itemized in this Part, shall be
 24 increased by one and eighty-one hundredths percent (1.81%).
 25

26 Requested by: Senators Garrou, Dalton, Hagan

27 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

28 **SECTION 30.5.** Effective July 1, 2003, G.S. 7A-101(a) reads as rewritten:

29 "(a) The clerk of superior court is a full-time employee of the State and shall
 30 receive an annual salary, payable in equal monthly installments, based on the population
 31 of the county as determined in subsection (a1) of this section, according to the following
 32 schedule:

33	Population	Annual Salary
34	Less than 100,000	\$69,911 \$71,176
35	100,000 to 149,999	78,452 79,872
36	150,000 to 249,999	86,994 88,569
37	250,000 and above	95,537 97,266.

38
 39 The salary schedule in this subsection is intended to represent the following
 40 approximate percentage of the salary of a chief district court judge:

41	Population	Annual Salary
42	Less than 100,000	73%
43	100,000 to 149,999	82%
44	150,000 to 249,999	91%
45	250,000 and above	100%.

46
 47 When a county changes from one population group to another, the salary of the clerk
 48 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 49 salary appropriate for the new population group, except that the salary of an incumbent
 50 clerk shall not be decreased by any change in population group during his continuance
 51 in office."
 52

53 Requested by: Senators Garrou, Dalton, Hagan, Thomas

54 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY**
 55 **INCREASES/CLERK OF COURT PERSONNEL FLEXIBILITY**

1 **SECTION 30.6.(a)** Effective July 1, 2003, assistant and deputy clerks shall
2 receive salary increases in the amount of one and eighty-one hundredths percent
3 (1.81%), except that any person entitled to a step increase pursuant to G.S. 7A-102 for
4 the 2003-2004 fiscal year shall not receive the one and eighty-one hundredths percent
5 (1.81%) increase provided by this act.

6 **SECTION 30.6.(b)** Effective July 1, 2003, G.S. 7A-102 reads as rewritten:

7 **"§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

8 (a) The numbers and salaries of assistant clerks, deputy clerks, and other
9 employees in the office of each clerk of superior court shall be determined by the
10 Administrative Officer of the Courts after consultation with the clerk concerned. All
11 personnel in the clerk's office are employees of the State. The clerk appoints the
12 assistants, deputies, and other employees in ~~his~~the clerk's office to serve at his or her
13 pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks
14 of superior court, conformed to the office of assistant or deputy clerk, as the case may
15 be. ~~The~~Except as provided by subsection (c2) of this section, the job classifications and
16 related salaries of each employee within the office of each superior court clerk shall be
17 subject to the approval of the Administrative Officer of the Courts after consultation
18 with each clerk concerned and shall be subject to the availability of funds appropriated
19 for that purpose by the General Assembly.

20 (b) An assistant clerk is authorized to perform all the duties and functions of the
21 office of clerk of superior court, and any act of an assistant clerk is entitled to the same
22 faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence
23 and correctness of any record in the clerk's office, to take the proofs and examinations
24 of the witnesses touching the execution of a will as required by G.S. 31-17, and to
25 perform any other ministerial act which the clerk may be authorized and empowered to
26 do, in his own name and without reciting the name of his principal. The clerk is
27 responsible for the acts of his assistants and deputies. With the consent of the clerk of
28 superior court of each county and the consent of the presiding judge in any proceeding,
29 an assistant or deputy clerk is authorized to perform all the duties and functions of the
30 office of the clerk of superior court in another county in any proceeding in the district or
31 superior court that has been transferred to that county from the county in which the
32 assistant or deputy clerk is employed.

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

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

54
55 Assistant Clerks and Head Bookkeeper

 Annual Salary

1	Minimum	\$26,515	\$26,995
2	Maximum	46,464	47,305
3			
4	Deputy Clerks		Annual Salary
5	Minimum	\$22,565	\$22,973
6	Maximum	35,934	36,584

7 (c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a
 8 head bookkeeper and set their salaries above the minimum rate established for the
 9 positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of
 10 the clerk's office would be best served by an appointment above the minimum rate, (ii)
 11 the appointee's skills and experience support the higher rate, and (iii) the Administrative
 12 Office of the Courts certifies that there are sufficient funds available.

13 (d) Full-time assistant clerks, licensed to practice law in North Carolina, who are
 14 employed in the office of superior court clerk on and after July 1, 1984, and full-time
 15 assistant clerks possessing a masters degree in business administration, public
 16 administration, accounting, or other similar discipline from an accredited college or
 17 university who are employed in the office of superior court clerk on and after July 1,
 18 1997, are authorized an annual salary of not less than three-fourths of the maximum
 19 annual salary established for assistant clerks; the clerk of superior court, with the
 20 approval of the Administrative Office of the Courts, may establish a higher annual
 21 salary but that salary shall not be higher than the maximum annual salary established for
 22 assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law
 23 school, who are employed in the office of superior court clerk on and after July 1, 1984,
 24 are authorized an annual salary of not less than two-thirds of the maximum annual
 25 salary established for assistant clerks; the clerk of superior court, with the approval of
 26 the Administrative Office of the Courts, may establish a higher annual salary, but the
 27 entry-level salary may not be more than three-fourths of the maximum annual salary
 28 established for assistant clerks, and in no event may be higher than the maximum annual
 29 salary established for assistant clerks. The-Except as provided by subsection (c2) of this
 30 section, the entry-level annual salary for all other assistant and deputy clerks employed
 31 on and after July 1, 1984, shall be at the minimum rates as herein established.

32 (e) A clerk of superior court may apply to the Director of the Administrative
 33 Office of the Courts to enter into contracts with local governments for the provision by
 34 the State of services of assistant clerks, deputy clerks, and other employees in the office
 35 of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

36 (f) The Director of the Administrative Office of the Courts may provide
 37 assistance requested pursuant to subsection (e) of this section only upon a showing by
 38 the senior resident superior court judge, supported by facts, that the overwhelming
 39 public interest warrants the use of additional resources for the speedy disposition of
 40 cases involving drug offenses, domestic violence, or other offenses involving a threat to
 41 public safety.

42 (g) The terms of any contract entered into with local governments pursuant to
 43 subsection (e) of this section shall be fixed by the Director of the Administrative Office
 44 of the Courts in each case. Nothing in this section shall be construed to obligate the
 45 General Assembly to make any appropriation to implement the provisions of this
 46 section or to obligate the Administrative Office of the Courts to provide the
 47 administrative costs of establishing or maintaining the positions or services provided for
 48 under this section. Further, nothing in this section shall be construed to obligate the
 49 Administrative Office of the Courts to maintain positions or services initially provided
 50 for under this section."
 51

52 Requested by: Senators Garrou, Dalton, Hagan
 53 **MAGISTRATES/SALARY INCREASES/LIMIT**

54 **SECTION 30.7.(a)** Effective July 1, 2003, magistrates shall receive salary
 55 increases in the amount of one and eighty-one hundredths percent (1.81%), except that

1 any person entitled to a step increase pursuant to G.S. 7A-171.1 for the 2003-2004 fiscal
 2 year shall not receive the one and eighty-one hundredths (1.81%) percent increase
 3 provided by this act.

4 **SECTION 30.7.(b)** Effective July 1, 2003, G.S. 7A-171.1 reads as rewritten:

5 **"§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

6 (a) The Administrative Officer of the Courts, after consultation with the chief
 7 district judge and pursuant to the following provisions, shall set an annual salary for
 8 each magistrate.

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

19
 20 Table of Salaries of Full-Time Magistrates

21

Step Level	Annual Salary	
Entry Rate	\$26,889	<u>\$27,376</u>
Step 1	29,525	<u>30,059</u>
Step 2	32,393	<u>32,979</u>
Step 3	35,523	<u>36,166</u>
Step 4	38,952	<u>39,657</u>
Step 5	42,721	<u>43,494</u>
Step 6	46,864	<u>47,712</u>

- 30
 31 (2) A part-time magistrate is a magistrate who is assigned to work an
 32 average of less than 40 hours of work a week during the term, except
 33 that no magistrate shall be assigned an average of less than 10 hours of
 34 work a week during the term. A part-time magistrate is included, in
 35 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)
 36 and G.S. 135-40.2(a). The Administrative Officer of the Courts
 37 designates whether a magistrate is a part-time magistrate. A part-time
 38 magistrate shall receive an annual salary based on the following
 39 formula: The average number of hours a week that a part-time
 40 magistrate is assigned work during the term shall be multiplied by the
 41 annual salary payable to a full-time magistrate who has the same
 42 number of years of service prior to the beginning of that term as does
 43 the part-time magistrate and the product of that multiplication shall be
 44 divided by the number 40. The quotient shall be the annual salary
 45 payable to that part-time magistrate.

- 46 (3) Notwithstanding any other provision of this subsection, an individual
 47 who, when initially appointed as a full-time magistrate, is licensed to
 48 practice law in North Carolina, shall receive the annual salary provided
 49 in the Table in subdivision (1) of this subsection for Step 4. This
 50 magistrate's salary shall increase to the next step every four years on
 51 the anniversary of the date the magistrate was originally appointed. An
 52 individual who, when initially appointed as a part-time magistrate, is
 53 licensed to practice law in North Carolina, shall be paid an annual
 54 salary based on that for Step 4 and determined according to the
 55 formula in subdivision (2) of this subsection. This magistrate's salary

shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

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

Less than 1 year of service	\$21,325	\$21,711
1 or more but less than 3 years of service	22,389	22,794
3 or more but less than 5 years of service	24,530	24,974

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

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Senators Garrou, Dalton, Hagan
GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 30.8. Effective July 1, 2003, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty eight thousand three hundred and six dollars (\$88,306)~~ eighty-nine thousand nine hundred four dollars (\$89,904) payable monthly. The

1 Legislative Services Commission shall review the salary of the principal clerks prior to
2 submission of the proposed operating budget of the General Assembly to the Governor
3 and Advisory Budget Commission and shall make appropriate recommendations for
4 changes in those salaries. Any changes enacted by the General Assembly shall be by
5 amendment to this paragraph."
6

7 Requested by: Senators Garrou, Dalton, Hagan
8 **SERGEANT-AT-ARMS AND READING CLERKS**

9 **SECTION 30.9.** Effective July 1, 2003, G.S. 120-37(b) reads as rewritten:

10 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
11 salary of ~~two hundred ninety two dollars (\$292.00)~~ two hundred ninety-seven dollars
12 (\$297.00) per week plus subsistence at the same daily rate provided for members of the
13 General Assembly, plus mileage at the rate provided for members of the General
14 Assembly for one round trip only from their homes to Raleigh and return. The
15 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
16 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
17 be authorized by the Legislative Services Commission. The reading clerks shall serve
18 during sessions only."
19

20 Requested by: Senators Garrou, Dalton, Hagan
21 **LEGISLATIVE EMPLOYEES**

22 **SECTION 30.10.** The Legislative Services Officer shall increase the salaries
23 of nonelected employees of the General Assembly in effect for fiscal year 2002-2003 by
24 one and eighty-one hundredths percent (1.81%). Nothing in this act limits any of the
25 provisions of G.S. 120-32.
26

27 Requested by: Senators Garrou, Dalton, Hagan
28 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

29 **SECTION 30.11.** The Director of the Budget shall transfer from the Reserve
30 for Compensation Increases, created in this act for fiscal years 2003-2004 and
31 2004-2005, funds to the North Carolina Community College System Office necessary to
32 provide an annual salary increase of one and eighty-one hundredths percent (1.81%)
33 including funds for the employer's retirement and social security contributions,
34 commencing July 1, 2003, for all permanent full-time community college institutional
35 personnel supported by State funds.
36

37 Requested by: Senators Garrou, Dalton, Hagan
38 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

39 **SECTION 30.12.(a)** The Director of the Budget shall transfer to the Board
40 of Governors of The University of North Carolina sufficient funds from the Reserve for
41 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,
42 to provide an annual salary increase of one and eighty-one hundredths percent (1.81%),
43 including funds for the employer's retirement and social security contributions,
44 commencing July 1, 2003, for all employees of The University of North Carolina, as
45 well as employees other than teachers of the North Carolina School of Science and
46 Mathematics, supported by State funds and whose salaries are exempt from the State
47 Personnel Act (EPA).
48

49 **SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board
50 of Governors of The University of North Carolina sufficient funds from the Reserve for
51 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,
52 to provide an average annual salary increase of one and eighty-one hundredths percent
53 (1.81%), including funds for the employer's retirement and social security contributions,
54 commencing July 1, 2003, for all teaching employees of the North Carolina School of
55 Science and Mathematics supported by State funds and whose salaries are exempt from
the State Personnel Act (EPA). These funds shall be allocated to individuals according

1 to the rules adopted by the Board of Trustees of the North Carolina School of Science
2 and Mathematics and may not be used for any purpose other than for salary increases
3 and necessary employer contributions provided by this section.
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **MOST STATE EMPLOYEES**

7 **SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent
8 full-time State employees whose salaries are set in accordance with the State Personnel
9 Act and who are paid from the General Fund or the Highway Fund shall be increased on
10 or after July 1, 2003, unless otherwise provided by this act, by one and eighty-one
11 hundredths percent (1.81%).

12 **SECTION 30.13.(b)** Except as otherwise provided in this act, the fiscal year
13 2003-2004 salaries for permanent full-time State officials and persons in exempt
14 positions that are recommended by the Governor or the Governor and the Advisory
15 Budget Commission and set by the General Assembly shall be increased by one and
16 eighty-one hundredths percent (1.81%), commencing July 1, 2003.

17 **SECTION 30.13.(c)** The salaries in effect for fiscal year 2003-2004 for all
18 permanent part-time State employees shall be increased on and after July 1, 2003, by
19 pro rata amounts of the one and eighty-one hundredths percent (1.81%) salary increase
20 provided for permanent full-time employees covered under subsection (a) of this
21 section.

22 **SECTION 30.13.(d)** The Director of the Budget may allocate out of special
23 operating funds or from other sources of the employing agency, except tax revenues,
24 sufficient funds to allow a salary increase, on and after July 1, 2003, in accordance with
25 subsection (a), (b), or (c) of this section, including funds for the employer's retirement
26 and social security contributions, for the permanent full-time and part-time employees
27 of the agency, provided the employing agency elects to make available the necessary
28 funds.

29 **SECTION 30.13.(e)** Within regular Executive Budget Act procedures as
30 limited by this act, all State agencies and departments may increase on an equitable
31 basis the rate of pay of temporary and permanent hourly State employees, subject to
32 availability of funds in the particular agency or department, by pro rata amounts of the
33 one and eighty-one hundredths percent (1.81%) salary increase provided for permanent
34 full-time employees covered by the provisions of subsection (a) of this section,
35 commencing July 1, 2003.
36

37 Requested by: Senators Garrou, Dalton, Hagan

38 **ALL STATE-SUPPORTED PERSONNEL**

39 **SECTION 30.14.(a)** Salaries and related benefits for positions that are
40 funded partially from the General Fund or Highway Fund and partially from sources
41 other than the General Fund or Highway Fund shall be increased from the General Fund
42 or Highway Fund appropriation only to the extent of the proportionate part of the
43 salaries paid from the General Fund or Highway Fund.

44 **SECTION 30.14.(b)** The granting of the salary increases under this act does
45 not affect the status of eligibility for salary increments for which employees may be
46 eligible unless otherwise required by this act.

47 **SECTION 30.14.(c)** The salary increases provided in this act are to be
48 effective July 1, 2003, and do not apply to persons separated from State service due to
49 resignation, dismissal, reduction in force, death, or retirement or whose last workday is
50 prior to July 1, 2003.

51 Payroll checks issued to employees after July 1, 2003, which represent
52 payment of services provided prior to July 1, 2003, shall not be eligible for salary
53 increases provided for in this act. This subsection shall apply to all employees, subject
54 to or exempt from the State Personnel Act, paid from State funds, including public
55 schools, community colleges, and The University of North Carolina.

1 **SECTION 30.14.(d)** The Director of the Budget shall transfer from the
2 Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds
3 necessary for the salary increases provided by this act, including funds for the
4 employer's retirement and social security contributions.

5 **SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds
6 between the General Fund and the Highway Fund for salary increases.

7
8 Requested by: Senators Garrou, Dalton, Hagan

9 **STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS**

10 **SECTION 30.15.** The Office of State Personnel (OSP) and the Office of
11 State Budget and Management (OSBM) shall study jointly the relative compensation of
12 members of the Council of State, State department heads, and other high-ranking
13 elected and nonelected public officials whose salaries are set by the General Assembly
14 to determine whether the officers are being compensated at rates in accordance with:

- 15 (1) The officer's scope of responsibilities and span of control.
- 16 (2) The critical nature of the officer's department, agency, institution, or
17 function.
- 18 (3) The relative size of the operations and budget under the officer's direct
19 control.
- 20 (4) The required credentials, knowledge, and experience necessary to
21 competently manage the officer's organization or function.

22 In conducting this study, the OSP and OSBM shall focus on the relative
23 compensation among these various officers to determine the appropriate salary levels
24 for the officers given the factors identified in this section. By April 15, 2004, OSP and
25 OSBM shall report their findings and recommendations to the Joint Legislative
26 Commission on Governmental Operations.

27
28 Requested by: Senators Garrou, Dalton, Hagan, Albertson

29 **TEMPORARY SALES TAX TRANSFER FOR TEMP SALES TAX FOR**
30 **WILDLIFE RESOURCES COMMISSION SALARIES**

31 **SECTION 30.15A.** For the 2003-2004 and 2004-2005 fiscal years, the
32 Secretary of Revenue shall transfer at the end of each quarter from the State sales and
33 use tax net collections received by the Department of Revenue under Article 5 of
34 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources
35 Fund to fund the cost of a salary increase authorized by the General Assembly for
36 employees of the Wildlife Resources Commission.

37
38 Requested by: Senators Garrou, Dalton, Hagan

39 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

40 **SECTION 30.16.(a)** Required employer salary-related contributions for
41 employees whose salaries are paid from department, office, institution, or agency
42 receipts shall be paid from the same source as the source of the employees' salary. If an
43 employee's salary is paid in part from the General Fund or Highway Fund and in part
44 from department, office, institution, or agency receipts, required employer salary-related
45 contributions may be paid from the General Fund or Highway Fund only to the extent of
46 the proportionate part paid from the General Fund or Highway Fund in support of the
47 salary of the employee, and the remainder of the employer's requirements shall be paid
48 from the source that supplies the remainder of the employee's salary. The requirements
49 of this section as to source of payment are also applicable to payments on behalf of the
50 employee for hospital-medical benefits, longevity pay, unemployment compensation,
51 accumulated leave, workers' compensation, severance pay, separation allowances, and
52 applicable disability income benefits.

53 **SECTION 30.16.(b)** Effective July 1, 2003, the State's employer
54 contribution rates budgeted for retirement and related benefits as percentage of covered
55 salaries for the 2003-2004 fiscal year are (i) four and fourteen hundredths percent

1 (4.14%) - Teachers and State Employees; (ii) nine and fourteen hundredths percent
2 (9.14%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent
3 (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six
4 hundredths percent (10.56%) - Community College Optional Retirement Program; (v)
5 fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement
6 System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement
7 System. Each of the foregoing contribution rates includes three and twenty hundredths
8 percent (3.20%) for hospital and medical benefits. The rate for Teachers and State
9 Employees, State Law Enforcement Officers, the Community College Optional
10 Retirement Program, and the University Employees' Optional Retirement Program
11 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
12 for Teachers and State Employees and State Law Enforcement Officers include sixteen
13 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
14 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

15 **SECTION 30.16.(c)** Effective July 1, 2004, the State's employer
16 contribution rates budgeted for retirement and related benefits as percentage of covered
17 salaries for the 2004-2005 fiscal year are (i) five and ninety-seven hundredths percent
18 (5.97%) - Teachers and State Employees; (ii) ten and ninety-seven hundredths percent
19 (10.97%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent
20 (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six
21 hundredths percent (10.56%) - Community College Optional Retirement Program; (v)
22 fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement
23 System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement
24 System. Each of the foregoing contribution rates includes three and twenty hundredths
25 percent (3.20%) for hospital and medical benefits. The rate for Teachers and State
26 Employees, State Law Enforcement Officers, the Community College Optional
27 Retirement Program, and the University Employees' Optional Retirement Program
28 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
29 for Teachers and State Employees and State Law Enforcement Officers include sixteen
30 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
31 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

32 **SECTION 30.16.(d)** The maximum annual employer contributions, payable
33 monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year
34 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
35 Medicare-eligible employees and retirees - two thousand five hundred eighteen dollars
36 (\$2,518), and (ii) non-Medicare-eligible employees and retirees - three thousand three
37 hundred seven dollars (\$3,307).

38 **SECTION 30.16.(e)** The maximum annual employer contributions, payable
39 monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year
40 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
41 Medicare-eligible employees and retirees - two thousand six hundred twelve dollars
42 (\$2,612), and (ii) non-Medicare-eligible employees and retirees - three thousand four
43 hundred thirty-two dollars (\$3,432).

44
45 Requested by: Senators Garrou, Dalton, Hagan

46 **RETIREMENT COLAS**

47 **SECTION 30.17.(a)** G.S. 135-5 is amended by adding a new subsection to
48 read:

49 "(III) From and after July 1, 2003, the retirement allowance to or on account of
50 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased
51 by one and forty-five hundredths percent (1.45%) of the allowance payable on June 1,
52 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the
53 retirement allowance to or on account of beneficiaries whose retirement commenced
54 after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of
55 one and forty-five hundredths percent (1.45%) of the allowance payable as determined

1 by the Board of Trustees based upon the number of months that a retirement allowance
2 was paid between July 1, 2002, and June 30, 2003."

3 **SECTION 30.17.(b)** G.S. 135-65 is amended by adding a new subsection to
4 read:

5 "(x) From and after July 1, 2003, the retirement allowance to or on account of
6 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased
7 by one and forty-five hundredths percent (1.45%) of the allowance payable on June 1,
8 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on
9 account of beneficiaries whose retirement commenced after July 1, 2002, but before
10 June 30, 2003, shall be increased by a prorated amount of one and forty-five hundredths
11 percent (1.45%) of the allowance payable as determined by the Board of Trustees based
12 upon the number of months that a retirement allowance was paid between July 1, 2002,
13 and June 30, 2003."

14 **SECTION 30.17.(c)** G.S. 120-4.22A is amended by adding a new subsection
15 to read:

16 "(r) In accordance with subsection (a) of this section, from and after July 1, 2003,
17 the retirement allowance to or on account of beneficiaries whose retirement commenced
18 on or before January 1, 2003, shall be increased by one and forty-five hundredths
19 percent (1.45%) of the allowance payable on June 1, 2003. Furthermore, from and after
20 July 1, 2003, the retirement allowance to or on account of beneficiaries whose
21 retirement commenced after January 1, 2003, but before June 30, 2003, shall be
22 increased by a prorated amount of one and forty-five hundredths percent (1.45%) of the
23 allowance payable as determined by the Board of Trustees based upon the number of
24 months that a retirement allowance was paid between January 1, 2003, and June 30,
25 2003."

26
27 Requested by: Senators Garrou, Dalton, Hagan, Kerr

28 **INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND**
29 **RESCUE SQUAD WORKERS' PENSION FUND**

30 **SECTION 30.19.** G.S. 58-86-55 reads as rewritten:

31 **"§ 58-86-55. Monthly pensions upon retirement.**

32 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
33 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S.
34 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
35 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
36 ~~fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month. Any
37 retired fireman receiving a pension shall, effective ~~July 1, 2002,~~ July 1, 2003, receive a
38 pension of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars
39 (\$158.00) per month.

40 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
41 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
42 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
43 pension hereunder until the member's official duties as a fireman or rescue squad
44 worker for which the member is paid compensation shall have been terminated and the
45 member shall have retired as such according to standards or rules fixed by the board of
46 trustees.

47 A member who is totally and permanently disabled while in the discharge of the
48 member's official duties as a result of bodily injuries sustained or as a result of extreme
49 exercise or extreme activity experienced in the course and scope of those official duties
50 and who leaves the fire or rescue squad service because of this disability shall be
51 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
52 ~~fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month
53 beginning the first month after the member's fifty-fifth birthday. All applications for
54 disability are subject to the approval of the board who may appoint physicians to
55 examine and evaluate the disabled member prior to approval of the application, and

1 annually thereafter. Any disabled member shall not be required to make the monthly
2 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

3 A member who is totally and permanently disabled for any cause, other than line of
4 duty, who leaves the fire or rescue squad service because of this disability and who has
5 at least 10 years of service with the pension fund, may be permitted to continue making
6 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
7 contributions for a total of 240 months. The member shall upon attaining the age of 55
8 years be entitled to receive a pension as provided by this section. All applications for
9 disability are subject to the approval of the board who may appoint physicians to
10 examine and evaluate the disabled member prior to approval of the application and
11 annually thereafter.

12 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
13 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
14 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
15 of the General Statutes, or whose volunteer department is taken over by a city or county,
16 and because of such annexation or takeover is unable to perform as a fireman or rescue
17 squad worker of any status, and if the member has at least 10 years of service with the
18 pension fund, may be permitted to continue making a monthly contribution of ten
19 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
20 months. The member upon attaining the age of 55 years and completion of such
21 contributions shall be entitled to receive a pension as provided by this section. Any
22 application to make monthly contributions under this section shall be subject to a
23 finding of eligibility by the Board of Trustees upon application of the member.

24 The pensions provided shall be in addition to all other pensions or benefits under any
25 other statutes of the State of North Carolina or the United States, notwithstanding any
26 exclusionary provisions of other pensions or retirement systems provided by law."
27

28 Requested by: Senators Rand , Garrou, Dalton, Hagan

29 **TRANSFER THE DISABILITY INCOME PLAN AND THE DEATH BENEFIT**
30 **PLAN FOR TEACHERS AND STATE EMPLOYEES AND THE SEPARATE**
31 **INSURANCE BENEFITS PLAN FOR LAW ENFORCEMENT OFFICERS**
32 **TO THE EXECUTIVE ADMINISTRATOR AND BOARD OF TRUSTEES OF**
33 **THE TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN**

34 **SECTION 30.20.(a)** G.S. 135-101 reads as rewritten:

35 **"§ 135-101. Definitions.**

36 The following words and phrases as used in this Article, unless a different meaning
37 is plainly required by the context, shall have the following meanings:

- 38 (1) "Base rate of compensation" shall mean the regular monthly rate of
39 compensation not including pay for shift premiums, overtime, or other
40 types of extraordinary pay; in all cases of doubt, the Executive
41 Administrator and the Board of Trustees shall determine what is "base
42 rate of compensation".
- 43 (2) "Beneficiary" shall mean any person in receipt of a disability
44 allowance or other benefit as provided in this Article.
- 45 (3) "Benefits" shall mean the monthly disability income payments made
46 pursuant to the provisions of this Article. In the event of death on or
47 after the first day of a month, or in the event the short-term disability
48 benefit ends on or after the first day of a month where the beneficiary
49 is eligible and applies for an early service or a service retirement
50 allowance the first of the following month, the monthly benefit shall
51 not be prorated and shall equal the benefits paid in the previous month.
- 52 (4) "Board of Trustees" shall mean the Board of Trustees of the Teachers'
53 and State Employees' Comprehensive Major Medical Plan as provided
54 in G.S. 135-39. Retirement System as provided in G.S. 135-6.

- 1 (5) "Compensation" shall mean any compensation as the term is defined in
2 G.S. 135-1(7a).
- 3 (6) "Disability" or "Disabled" shall mean the ~~mental or physical incapacity~~
4 ~~for the further performance of duty of a participant or beneficiary;~~
5 physical or cognitive limitations that prevent working as determined
6 by the Executive Director and the Board of Trustees; provided that
7 such incapacity was not the result of terrorist activity, active
8 participation in a riot, committing or attempting to commit a felony, or
9 intentionally self-inflicted injury.
- 10 (7) "Earnings" shall mean all income for personal services rendered or
11 otherwise receivable, including, but not limited to, salaries and wages,
12 fees, commissions, royalties, awards and other similar items and
13 self-employment; in all cases of doubt, the Board of Trustees shall
14 determine what are "earnings".
- 15 (8) "Employee" shall mean any employee as the term is defined in G.S.
16 135-1(10).
- 17 (9) "Employer" shall mean any employer as the term is defined in G.S.
18 135-1(11).
- 19 (10) "Medical Board" shall mean the board of physicians as provided in
20 G.S. 135-102(d).
- 21 (11) "Member" shall mean any member as the term is defined in G.S.
22 135-1(13).
- 23 (12) "Membership service" shall mean any service as defined in G.S.
24 135-1(14).
- 25 (13) "Participant" shall mean any teacher or employee eligible to participate
26 in the Plan as provided in G.S. 135-103.
- 27 (14) "Plan" shall mean the Disability Income Plan of North Carolina as
28 provided in this Article.
- 29 (15) "Retirement" shall mean the withdrawal from active service with a
30 retirement allowance granted under the provisions of Article 1 of this
31 Chapter.
- 32 (16) "Retirement System" shall mean the Teachers' and State Employees'
33 Retirement System of North Carolina as defined in G.S. 135-2.
- 34 (17) "Service" shall mean service as a teacher or employee as defined in
35 G.S. 135-1(10) or G.S. 135-1(25).
- 36 (18) "State" shall mean the State of North Carolina.
- 37 (19) "Teacher" shall mean any teacher as the term is defined in G.S.
38 135-1(25).
- 39 (20) "Trial Rehabilitation" shall mean a return to service in any capacity, if
40 the return occurs within the waiting period as provided in G.S.
41 135-104 and shall mean a return to service in the same capacity that
42 existed prior to the ~~disability~~ disability, or in any occupation for which
43 the beneficiary or participant is reasonably qualified for by training or
44 experience, if the return occurs within the short-term disability period
45 as provided in G.S. 135-105.
- 46 (21) "Workers' Compensation" shall mean any disability income benefits
47 provided under the North Carolina Workers' Compensation Act,
48 excluding any payments for a permanent partial disability rating."

49 **SECTION 30.20.(b)** G.S. 135-102 reads as rewritten:

50 **"§ 135-102. Administration.**

51 (a) The provisions of this Article shall be administered by the ~~Department of~~
52 ~~State Treasurer~~ Executive Administrator and the Board of Trustees of the Teachers' and
53 State Employees' ~~Retirement System~~ Comprehensive Major Medical Plan and all
54 expenses in connection with the administration of the Plan, except for expenses incurred

1 by and properly charged to the employer, shall be charged against and paid from the
2 trust fund as created and provided in this Article.

3 (b) The Plan shall have the power and privileges of a corporation and under the
4 name of Disability Income Plan of North Carolina shall all of its business be transacted,
5 all of its funds invested and all of its cash, securities and other property be held.

6 (c) ~~The Department of State Treasurer~~ Executive Administrator and the Board of
7 Trustees shall have the full power and authority to adopt rules for the administration of
8 the Plan not inconsistent with the provisions of this Article. ~~The Department of State~~
9 ~~Treasurer and the Board of Trustees may appoint those agents, contractors, and~~
10 ~~employees as they deem advisable to carry out the terms and conditions of the Plan.~~
11 Executive Administrator and the Board of Trustees may contract with a third-party
12 administrator or insurer to carry out the terms and conditions of the Plan after a
13 competitive bidding process.

14 (d) ~~The Department of State Treasurer~~ Executive Administrator and the Board of
15 Trustees shall designate a Medical Board to be composed of not fewer than three nor
16 more than five physicians not eligible for benefits under the Plan. Other physicians,
17 medical clinics, institutions or agencies may be employed to conduct such medical
18 examinations and tests necessary to provide the Medical Board with clinical evidence as
19 may be needed to determine eligibility for benefits under the Plan. The Medical Board
20 shall investigate the results of medical examinations, clinical evidence, all essential
21 statements and certifications by and on behalf of applicants for benefits and shall report
22 in writing to the Board of Trustees the conclusions and recommendations upon all
23 matters referred to it.

24 (e) ~~The Department of State Treasurer~~ Executive Administrator and the Board of
25 Trustees may provide the benefits according to the terms and conditions of the Plan as
26 provided in this Article either by purchasing a contract or contracts with any insurance
27 company licensed to do business in this State or by establishing a separate trust fund
28 qualified under Section 501(c)(9) of the Internal Revenue Code of 1986."

29 **SECTION 30.20.(c)** G.S. 135-105(a) reads as rewritten:

30 "(a) Any participant who ~~becomes disabled and is no longer able to perform his~~
31 ~~usual occupation is unable to perform the duties of the participant's job or any other~~
32 available jobs with the State may, after at least 365 calendar days succeeding his date of
33 initial employment as a teacher or employee and at least one year of contributing
34 membership service, receive a benefit commencing on the first day succeeding the
35 waiting period; provided that the participant's employer and attending physician shall
36 certify that such participant ~~is mentally or physically incapacitated for the further~~
37 ~~performance of duty, cannot perform the duties of the participant's job or any other jobs~~
38 available with the State, that such incapacity was incurred at the time of active
39 employment and has been continuous thereafter; provided further that the requirement
40 for one year of contributing membership service must have been earned within 36
41 calendar months immediately preceding the date of disability and further, salary
42 continuation used during the period as provided in G.S. 135-104 shall count toward the
43 aforementioned one year requirement.

44 Notwithstanding the requirement that the incapacity was incurred at the time of
45 active employment, any participant who becomes disabled while on an employer
46 approved leave of absence and who is eligible for and in receipt of temporary total
47 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
48 of the General Statutes, will be eligible for all benefits provided under this Article."

49 **SECTION 30.20.(d)** G.S. 135-106(a) reads as rewritten:

50 "(a) Upon the application of a beneficiary or participant or of his legal
51 representative or any person deemed by the Board of Trustees to represent the
52 participant or beneficiary, any beneficiary or participant who has had five or more years
53 of membership service may receive long-term disability benefits from the Plan upon
54 approval by the Board of Trustees, commencing on the first day succeeding the
55 conclusion of the short-term disability period provided for in G.S. 135-105, provided

1 the beneficiary or participant makes application for such benefit within 180 days after
2 the short-term disability period ceases, after salary continuation payments cease, or after
3 monthly payments for Workers' Compensation cease, whichever is later; Provided, that
4 the beneficiary or participant withdraws from active service by terminating employment
5 as a teacher or State employee; Provided, that the Medical Board shall certify that such
6 beneficiary or participant is ~~mentally or physically incapacitated for the further~~
7 ~~performance of duty, unable to perform any occupation for which the beneficiary or~~
8 ~~participant is reasonably qualified for by training or experience,~~ that such incapacity
9 was incurred at the time of active employment and has been continuous thereafter, that
10 such incapacity is likely to be permanent; Provided further that the Medical Board shall
11 not certify any beneficiary or participant as disabled who is in receipt of any payments
12 on account of the same incapacity which existed when the beneficiary first established
13 membership in the Retirement System. The Board of Trustees may extend this 180-day
14 filing requirement upon receipt of clear and convincing evidence that application was
15 delayed through no fault of the disabled beneficiary or participant and was delayed due
16 to the employers' miscalculation of the end of the 180-day filing period. However, in no
17 instance shall the filing period be extended beyond an additional 180 days.

18 The Board of Trustees may require each beneficiary who becomes eligible to receive
19 a long-term disability benefit to have an annual medical review or examination for the
20 first five years and thereafter once every three years after the commencement of benefits
21 under this section. However, the Board of Trustees may require more frequent
22 examinations and upon the advice of the Medical Board shall determine which cases
23 require such examination. Should any beneficiary refuse to submit to any examination
24 required by this subsection or by the Medical Board, his long-term disability benefit
25 shall be suspended until he submits to an examination, and should his refusal last for
26 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board
27 finds that a beneficiary is no longer ~~mentally or physically incapacitated for the further~~
28 ~~performance of duty, unable to perform any occupation for which the beneficiary or~~
29 ~~participant is reasonably qualified for by training or experience,~~ the Medical Board shall
30 so certify this finding to the Board of Trustees, and the Board of Trustees may terminate
31 the beneficiary's long-term disability benefits effective on the last day of the month in
32 which the Medical Board certifies that the beneficiary is no longer disabled.

33 As to the requirement of five years of membership service, any participant or
34 beneficiary who does not have five years of membership service within the 96 calendar
35 months prior to conclusion of the short-term disability period or cessation of salary
36 continuation payments, whichever is later, shall not be eligible for long-term disability
37 benefits.

38 Notwithstanding the requirement that the incapacity was incurred at the time of
39 active employment, any participant who becomes disabled while on an employer
40 approved leave of absence and who is eligible for and in receipt of temporary total
41 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
42 of the General Statutes, will be eligible for all benefits provided under this Article."

43 **SECTION 30.20.(e)** G.S. 135-109 reads as rewritten:

44 **"§ 135-109. Reports of earnings.**

45 ~~The Department of State Treasurer~~ Executive Administrator and Board of Trustees
46 shall require each beneficiary to annually provide a copy of the beneficiary's federal
47 income tax return certified by the beneficiary to be a true and exact copy of such tax
48 return filed with the United States Internal Revenue Service and shall require such other
49 statements of earnings as may be necessary to administer the provisions of this Article.
50 The benefit payable to a beneficiary who does not or refuses to provide the information
51 requested within 60 days after such request shall not be paid a benefit until the
52 information so requested is provided, and should such refusal or failure to provide such
53 information continue for 180 days after such request the right of a beneficiary to a
54 benefit under the Article shall be terminated."

55 **SECTION 30.20.(f)** G.S. 135-5(l) reads as rewritten:

1 "~~(1) Death Benefit Plan.—There is hereby created a Group Life Insurance Plan~~
2 ~~(hereinafter called the "Plan") which is established as an employee welfare benefit plan~~
3 ~~that is separate and apart from the Retirement System and under which the members of~~
4 ~~the Retirement System shall participate and be eligible for group life insurance benefits.~~
5 ~~Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees~~
6 ~~under the Group Life Insurance Plan, of the death, in service, of a member who had~~
7 ~~completed at least one full calendar year of membership in the Retirement System, there~~
8 ~~shall be paid to such person as he shall have nominated by written designation duly~~
9 ~~acknowledged and filed with the Board of Trustees, if such person is living at the time~~
10 ~~of the member's death, otherwise to the member's legal representatives, a death benefit.~~
11 ~~Such death benefit shall be equal to the greater of:~~

- 12 ~~(1) The compensation on which contributions were made by the member~~
13 ~~during the calendar year preceding the year in which his death occurs,~~
14 ~~or~~
15 ~~(2) The greatest compensation on which contributions were made by the~~
16 ~~member during a 12 month period of service within the 24 month~~
17 ~~period of service ending on the last day of the month preceding the~~
18 ~~month in which his last day of actual service occurs;~~
19 ~~(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049,~~
20 ~~s. 2.~~

21 ~~subject to a minimum of twenty five thousand dollars (\$25,000) and to a maximum of~~
22 ~~fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate~~
23 ~~from the payment of the member's accumulated contributions under the System on his~~
24 ~~death pursuant to the provisions of subsection (f) of this section. For the purpose of the~~
25 ~~Plan, a member shall be deemed to be in service at the date of his death if his death~~
26 ~~occurs within 180 days from the last day of his actual service.~~

27 ~~The death benefit provided in this subsection (1) shall not be payable,~~
28 ~~notwithstanding the member's compliance with all the conditions set forth in the~~
29 ~~preceding paragraph, if his death occurs~~

- 30 ~~(1) After December 31, 1968 and after he has attained age 70; or~~
31 ~~(2) After December 31, 1969 and after he has attained age 69; or~~
32 ~~(3) After December 31, 1970 and after he has attained age 68; or~~
33 ~~(4) After December 31, 1971 and after he has attained age 67; or~~
34 ~~(5) After December 31, 1972 and after he has attained age 66; or~~
35 ~~(6) After December 31, 1973 and after he has attained age 65; or~~
36 ~~(7) After December 31, 1978, but before January 1, 1987, and after he has~~
37 ~~attained age 70.~~

38 ~~Notwithstanding the above provisions, the death benefit shall be payable on account~~
39 ~~of the death of any member who died or dies on or after January 1, 1974, but before~~
40 ~~January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or~~
41 ~~she had not yet attained age 66, was at the time of death completing the work year for~~
42 ~~those individuals under specific contract, or during the fiscal year for those individuals~~
43 ~~not under specific contract, in which he or she attained 65, and otherwise met all~~
44 ~~conditions for payment of the death benefit.~~

45 ~~Notwithstanding the above provisions, the Board of Trustees may and is specifically~~
46 ~~authorized to provide the death benefit according to the terms and conditions otherwise~~
47 ~~appearing in this Plan in the form of group life insurance, either (i) by purchasing a~~
48 ~~contract or contracts of group life insurance with any life insurance company or~~
49 ~~companies licensed and authorized to transact business in this State for the purpose of~~
50 ~~insuring the lives of members in service, or (ii) by establishing a separate trust fund~~
51 ~~qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended,~~
52 ~~for such purpose. To that end the Board of Trustees is authorized, empowered and~~
53 ~~directed to investigate the desirability of utilizing group life insurance by either of the~~
54 ~~foregoing methods for the purpose of providing the death benefit. If a separate trust~~
55 ~~fund is established, it shall be operated in accordance with rules and regulations adopted~~

1 by the Board of Trustees and all investment earnings on the trust fund shall be credited
2 to such fund.

3 In administration of the death benefit the following shall apply:

- 4 (1) For the purpose of determining eligibility only, in this subsection
5 "calendar year" shall mean any period of 12 consecutive months or, if
6 less, the period covered by an annual contract of employment. For all
7 other purposes in this subsection "calendar year" shall mean the 12
8 months beginning January 1 and ending December 31.
- 9 (2) Last day of actual service shall be:
- 10 a. When employment has been terminated, the last day the
11 member actually worked.
- 12 b. When employment has not been terminated, the date on which
13 an absent member's sick and annual leave expire, unless he is
14 on approved leave of absence and is in service under the
15 provisions of G.S. 135-4(h).
- 16 (3) For a period when a member is on leave of absence, his status with
17 respect to the death benefit will be determined by the provisions of
18 G.S. 135-4(h).
- 19 (4) A member on leave of absence from his position as a teacher or State
20 employee for the purpose of serving as a member or officer of the
21 General Assembly shall be deemed to be in service during sessions of
22 the General Assembly and thereby covered by the provisions of the
23 death benefit. The amount of the death benefit for such member shall
24 be the equivalent of the salary to which the member would have been
25 entitled as a teacher or State employee during the 12-month period
26 immediately prior to the month in which death occurred, not to be less
27 than twenty five thousand dollars (\$25,000) nor to exceed fifty
28 thousand dollars (\$50,000).

29 The provisions of the Retirement System pertaining to Administration, G.S. 135-6,
30 and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

31 A member who is a beneficiary of the Disability Income Plan provided for in Article
32 6 of this Chapter shall be eligible for group life insurance benefits as provided in this
33 subsection, notwithstanding that the member is no longer an employee or teacher or that
34 the member's death occurs after the eligibility period after active service. The basis of
35 the death benefit payable hereunder shall be the higher of the death benefit computed as
36 above or a death benefit based on compensation used in computing the benefit payable
37 under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post disability
38 increases, all subject to the maximum dollar limitation as provided above. A member in
39 receipt of benefits from the Disability Income Plan under the provisions of G.S.
40 135-112 whose right to a benefit accrued under the former Disability Salary
41 Continuation Plan shall not be covered under the provisions of this paragraph.

42 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
43 subsection, of the death of a retired member of the Retirement System on or after July 1,
44 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving
45 spouse of the deceased retired member or to the deceased retired member's legal
46 representative if not survived by a spouse; provided the retired member has elected,
47 when first eligible, to make, and has continuously made, in advance of his death
48 required contributions as determined by the Board of Trustees on a fully contributory
49 basis, through retirement allowance deductions or other methods adopted by the Board
50 of Trustees, to a group death benefit trust fund administered by the Board of Trustees
51 separate and apart from the Retirement System's Annuity Savings Fund and Pension
52 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of
53 five thousand dollars (\$5,000) upon the completion of twenty-four months of
54 contributions required under this subsection. Should death occur before the completion
55 of twenty-four months of contributions required under this subsection, the deceased

1 retired member's surviving spouse or legal representative if not survived by a spouse
2 shall be paid the sum of the retired member's contributions required by this subsection
3 plus interest to be determined by the Board of Trustees.

4 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
5 subsection, of the death of a retired member of the Retirement System on or after
6 January 1, 1999, there shall be paid a death benefit to the surviving spouse of the
7 deceased retired member or to the deceased retired member's legal representative if not
8 survived by a spouse; provided the retired member has elected, when first eligible, to
9 make, and has continuously made, in advance of his death required contributions as
10 determined by the Board of Trustees on a fully contributory basis, through retirement
11 allowance deductions or other methods adopted by the Board of Trustees, to a group
12 death benefit trust fund administered by the Board of Trustees separate and apart from
13 the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This
14 death benefit shall be a lump-sum payment in the amount of six thousand dollars
15 (\$6,000) upon the completion of 24 months of contributions required under this
16 subsection. Should death occur before the completion of 24 months of contributions
17 required under this subsection, the deceased retired member's surviving spouse or legal
18 representative if not survived by a spouse shall be paid the sum of the retired member's
19 contributions required by this subsection plus interest to be determined by the Board of
20 Trustees."

21 **SECTION 30.20.(g)** G.S. 135-5(11) is repealed.

22 **SECTION 30.20.(h)** Article 3 of Chapter 135 of the General Statutes is
23 amended by adding a new Part to read:

24 "Part 6. Death Benefit Plan for Teachers and State Employees.

25 "**§ 135-43. Death benefits.**

26 (a) The provisions of this Part shall be administered by the Executive
27 Administrator and Board of Trustees of the Teachers' and State Employees'
28 Comprehensive Major Medical Plan.

29 (b) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan
30 (hereinafter called the "Plan") which is established as an employee welfare benefit plan
31 that is separate and apart from the Retirement System and under which the members of
32 the Teachers' and State Employees' Retirement System shall participate in and be
33 eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the
34 Board of Trustees in their capacity as trustees under the Plan, of the death, in service, of
35 a member who had completed at least one full calendar year of membership in the
36 Retirement System, there shall be paid to such person as he shall have nominated by
37 written designation duly acknowledged and filed with the Executive Administrator and
38 the Board of Trustees, if such person is living at the time of the member's death,
39 otherwise to the member's legal representatives, a death benefit. Such death benefit shall
40 be equal to fifty thousand dollars (\$50,000). Such death benefit shall be payable apart
41 and separate from the payment of the member's accumulated contributions under the
42 System on his death pursuant to the provisions of G.S. 135-5(f). For the purpose of the
43 Plan, a member shall be deemed to be in service at the date of his death if his death
44 occurs within 180 days from the last day of his actual service.

45 Notwithstanding the above provisions, the Executive Administrator and the Board of
46 Trustees may and is specifically authorized to provide the death benefit according to the
47 terms and conditions otherwise appearing in this Plan in the form of group life
48 insurance, either (i) by purchasing a contract or contracts of group life insurance with
49 any life insurance company or companies licensed and authorized to transact business in
50 this State for the purpose of insuring the lives of members in service, after a competitive
51 bidding process as provided for under Article 3 of Chapter 143 of the General Statutes,
52 or (ii) by establishing a separate trust fund qualified under section 501(c)(9) of the
53 Internal Revenue Code of 1954, as amended, for such purpose. To that end, the Board
54 of Trustees is authorized, empowered, and directed to investigate the desirability of
55 utilizing group life insurance by either of the foregoing methods for the purpose of

1 providing the death benefit. If a separate trust fund is established, it shall be operated in
2 accordance with rules and regulations adopted by the Board of Trustees, and all
3 investment earnings on the trust fund shall be credited to such fund.

4 (c) Administration of Death Benefit Plan. – In administration of the death
5 benefit, the following shall apply:

6 (1) For the purpose of determining eligibility only, in this subsection
7 "calendar year" shall mean any period of 12 consecutive months or, if
8 less, the period covered by an annual contract of employment. For all
9 other purposes, in this subsection "calendar year" shall mean the 12
10 months beginning January 1 and ending December 31.

11 (2) Last day of actual service shall be:

12 a. When employment has been terminated, the last day the
13 member actually worked.

14 b. When employment has not been terminated, the date on which
15 an absent member's sick and annual leave expire, unless he is
16 on approved leave of absence and is in service under the
17 provisions of G.S. 135-4(h).

18 (3) For a period when a member is on leave of absence, his status with
19 respect to the death benefit will be determined by the provisions of
20 G.S. 135-4(h).

21 (4) A member on leave of absence from his position as a teacher or State
22 employee for the purpose of serving as a member or officer of the
23 General Assembly shall be deemed to be in service during sessions of
24 the General Assembly and thereby covered by the provisions of the
25 death benefit. The amount of the death benefit for such member shall
26 be fifty thousand dollars (\$50,000).

27 A member who is a beneficiary of the Disability Income Plan provided for in Article
28 6 of this Chapter shall be eligible for group life insurance benefits as provided in this
29 subsection, notwithstanding that the member is no longer an employee or teacher or that
30 the member's death occurs after the eligibility period after active service. The basis of
31 the death benefit payable hereunder shall be the higher of the death benefit computed as
32 above or a death benefit based on compensation used in computing the benefit payable
33 under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage postdisability
34 increases, all subject to the maximum dollar limitation as provided above. A member in
35 receipt of benefits from the Disability Income Plan under the provisions of G.S.
36 135-112 whose right to a benefit accrued under the former Disability Salary
37 Continuation Plan shall not be covered under the provisions of this paragraph.

38 (d) Reciprocity of Death Benefit Plan. – Only for the purpose of determining
39 eligibility for the death benefit provided for in subsection (b) of this section,
40 membership service standing to the credit of a member of the Legislative Retirement
41 System or the Consolidated Judicial Retirement System shall be added to the
42 membership service standing to the credit of a member of the Teachers' and State
43 Employees' Retirement System. However, in the event that a participant or beneficiary
44 is a retired member of the Legislative Retirement System or the Consolidated Judicial
45 Retirement System whose retirement benefit was suspended upon entrance into
46 membership in the Teachers' and State Employees' Retirement System, such
47 membership service standing to the credit of the retired member prior to retirement shall
48 be likewise counted. Membership service under this section shall not be counted twice
49 for the same period of time. In no event shall a death benefit provided for in G.S.
50 135-5(l) be paid if a death benefit is paid under G.S. 135-63."

51 **SECTION 30.20.(i)** G.S. 143-166.60(b) reads as rewritten:

52 "(b) The Boards of Trustees of the Teachers' and State Employees' Retirement
53 System and the Local Governmental Employees' Retirement System shall jointly. The
54 Executive Administrator and the Board of Trustees of the Teachers' and State
55 Employees' Comprehensive Major Medical Plan shall administer the Plan and shall,

1 under the terms and conditions otherwise appearing in this Article, provide Plan benefits
 2 either (i) by establishing a separate trust fund in conformance with Section 501(c)(9) of
 3 the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate
 4 with a master trust providing the same benefits for participants."

5 **SECTION 30.20.(j)** G.S. 135-39.5 is amended by adding three new
 6 subdivisions to read:

7 "(28) Administering the Disability Income Plan under Article 6 of Chapter
 8 135 of the General Statutes.

9 (29) Administering the Death Benefit Plan for teachers and State employees
 10 under Part 6 of Article 3 of Chapter 135 of the General Statutes.

11 (30) Administering the Separate Insurance Benefits Plan under Article 12F
 12 of Chapter 143 of the General Statutes."

13
 14 **SECTION 30.20.(k)** This section becomes effective January 1, 2004.

15
 16 Requested by: Senators Rand, Garrou, Dalton, Hagan

17 **STATEWIDE BENEFIT COMMITTEE ESTABLISHED TO PROVIDE A**
 18 **MENU OF PORTABLE SUPPLEMENTAL BENEFITS FOR ALL STATE**
 19 **EMPLOYEES**

20 **SECTION 30.21.** G.S. 58-31-60 reads as rewritten:

21 **"§ 58-31-60. Competitive selection of payroll Payroll deduction insurance products**
 22 **paid for by State employees.**

23 (a) ~~Employee Insurance State Employee Benefit Committee. – The Department~~
 24 ~~of Administration shall establish a State Employee Benefit Committee (hereinafter~~
 25 ~~"Committee") head of each State government employee payroll unit offering payroll~~
 26 ~~deduction insurance products to employees shall appoint an Employee Insurance~~
 27 ~~Committee for the following purposes:~~

28 (1) To review insurance products currently offered through payroll
 29 deduction to ~~the all~~ State employees ~~in the Employee Insurance~~
 30 ~~Committee's payroll unit~~ to determine if those products meet the needs
 31 and desires of ~~employees in the Employee Insurance Committee's~~
 32 ~~payroll unit.~~ State employees.

33 (2) To select the types of insurance products that reflect the needs and
 34 desires of ~~employees in the Employee Insurance Committee's payroll~~
 35 ~~unit.~~ all State employees.

36 (3) To competitively select the best insurance ~~products of the types~~
 37 ~~determined by the Employee Insurance Committee to reflect the needs~~
 38 ~~and desires of the employees of that payroll unit.~~ products.

39 As used in this section, "insurance product" includes a prepaid legal services plan
 40 registered under G.S. 84-23.1.

41 (b) ~~Appointment of Employee Insurance Committee Members. – The members~~
 42 ~~of the Employee Insurance Committee shall be appointed by the head of the payroll~~
 43 ~~unit.~~ State Employee Benefit Committee. – The Governor shall appoint the members of
 44 the State Employee Benefit Committee. The Committee shall consist of not less than
 45 five or more than nine individuals a majority of whom have been employed ~~in the~~
 46 ~~payroll unit by the State~~ for at least one year. The committee members shall, except
 47 where necessary initially to establish the rotation herein prescribed, serve three-year
 48 terms with approximately one-third of the terms expiring annually. Committee
 49 membership make-up shall fairly represent the work force ~~in the payroll unit~~ and be
 50 selected without regard to any political or other affiliations. It shall be the duty of the
 51 ~~payroll unit head to assure that the Employee Insurance Committee~~Department of
 52 Administration to assure that the Committee is completely autonomous in its selection
 53 of insurance products and insurance companies and that no member of the Employee
 54 Insurance Committee has any conflict of interest in serving on the Committee. A
 55 committee on employee benefits elected or appointed by the faculty representative body

1 ~~of a constituent institution of The University of North Carolina shall be deemed~~
2 ~~constituted and functioning as an employee insurance committee in accordance with this~~
3 ~~section. Any decision rendered by the Employee Insurance Committee where the~~
4 ~~autonomy of the Committee or a conflict of interest is questioned shall be subject to~~
5 ~~appeal pursuant to the Administrative Procedure Act, or in the case of departments,~~
6 ~~boards and commissions which are specifically exempt from the Administrative~~
7 ~~Procedure Act, pursuant to the appeals procedure prescribed for such department, board~~
8 ~~or commission. Act.~~

9 (c) Payroll Deduction Slots. – Each payroll unit shall be entitled to not less than
10 four payroll deduction slots to be used for payment of insurance premiums for products
11 selected by the ~~Employee Insurance Committee~~ and offered to the employees of the
12 payroll unit. The ~~Employee Insurance Committee~~ shall select only one company per
13 payroll deduction slot. The Company selected by the ~~Employee Insurance Committee~~
14 shall be permitted to sell through payroll deduction only the products specifically
15 approved by the ~~Employee Insurance Committee~~. The assignment by the ~~Employee~~
16 ~~Insurance Committee~~ of a payroll deduction slot shall be for a period of not less than
17 two years unless the insurance company shall be in violation of the terms of the written
18 agreement specified in this subsection. The insurance company awarded a payroll
19 deduction slot shall, pursuant to a written agreement setting out the rights and duties of
20 the insurance company, be afforded an adequate opportunity to solicit employees of the
21 payroll unit by making such employees aware that a representative of the company will
22 be available at a specified time and at a location convenient to the employees.

23 Notwithstanding any other provision of the General Statutes, once an employee has
24 selected an insurance product for payroll deduction, that product may not be removed
25 from payroll deduction for that employee without his or her specific written consent.

26 When an employee retires from State employment and payroll deduction under this
27 section is no longer available, the insurance company may not terminate life insurance
28 products purchased under the payroll deduction plan without the retiree's specific
29 written consent solely because the premium is no longer deducted from payroll.

30 (c1) Procedure for Selection of Insurance Product Proposals. – All insurance
31 product proposals shall be sealed. The Committee shall open all proposals in public and
32 record them in the minutes of the Committee, at which time the proposals become
33 public records open to public inspection.

34 After the public opening, the Committee shall review the proposals, examining the
35 cost and quality of the products, the reputation and capabilities of the insurance
36 companies submitting the proposals, and other appropriate criteria. ~~The Committee shall~~
37 ~~determine which proposal, if any, would meet the needs and desires of the employees of~~
38 ~~that Committee's payroll unit and shall award a payroll deduction slot to the company~~
39 ~~submitting the proposal that meets those needs and desires. The Committee may reject~~
40 any or all proposals.

41 A company may seek to modify or withdraw a proposal only after the public
42 opening and only on the basis that the proposal contains an unintentional clerical error
43 as opposed to an error in judgment. A company seeking to modify or withdraw a
44 proposal shall submit to the Committee a written request, with facts and evidence in
45 support of its position, prior to the award of the payroll deduction slot, but not later than
46 two days after the public opening of the proposals. The Committee shall promptly
47 review the request, examine the nature of the error, and determine whether to permit or
48 deny the request.

49 (d) Criminal Penalty. – It shall be a Class 3 misdemeanor for any State employee,
50 who has supervisory authority over any member of the ~~Employee Insurance Committee~~,
51 to attempt to influence the autonomy of ~~any Employee Insurance~~ the Committee either
52 in the appointment of members to such Committee or in the operation of such
53 Committee; or for anyone to open a sealed insurance product proposal or disclose or
54 exhibit the contents of a sealed insurance product proposal, prior to the public opening
55 of the proposal. The Commissioner of Insurance shall have the authority to investigate

1 complaints alleging acts subject to the criminal penalty and shall report his findings to
2 the Attorney General of North Carolina."
3

4 Requested by: Senators Garrou, Dalton, Hagan

5 **SALARY STUDY**

6 **SECTION 30.22.** The Senate Appropriations/Base Budget Committee and
7 the House Appropriations Committee shall study the compensation plans for State
8 employees. In the course of the study, the Committees shall (i) review the
9 compensation plans currently in effect for State employees, (ii) consider differences in
10 the longevity compensation, special pay plans, performance pay plans, and other
11 components of the plans, and (iii) consider ways to modify the plans to promote equity
12 and efficiency in State government.
13

14 **PART XXXI. CAPITAL APPROPRIATIONS**

15
16 Requested by: Senators Garrou, Hagan, Dorsett

17 **CAPITAL APPROPRIATIONS/GENERAL FUND**

18 **SECTION 31.1.** There is appropriated from the General Fund for the
19 2003-2004 fiscal year the following amount for capital improvements:

	2003-2004
20	
21 Department of Environment and Natural Resources	
22 Water Resources Development Projects	\$27,601,000
23 Department of Cultural Resources	
24 International Civil Rights Museum	1,000,000
25	
26 TOTAL CAPITAL APPROPRIATION	\$28,601,000
27	

28 Requested by: Senators Garrou, Dalton, Hagan, Thomas

29 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

30 **SECTION 31.2.(a)** The Department of Environment and Natural Resources
31 shall allocate the funds appropriated in this act for water resources development projects
32 to the following projects whose costs are as indicated:
33

Name of Project	2003-2004
34	
35	
36 (1) Wilmington Harbor Deepening	\$6,800,000
37 (2) Morehead City Harbor Maintenance	100,000
38 (3) Morehead City Harbor Section 933 Nourishment	4,661,000
39 (4) Wilmington Harbor Maintenance	2,700,000
40 (5) Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
41 (6) John H. Kerr Reservoir Operations Evaluation	200,000
42 (7) Beaufort Harbor Maintenance Dredging	80,000
43 (8) Carolina Beach Renourishment (New Hanover County)	1,125,000
44 (9) Kure Beach Renourishment (New Hanover County)	1,177,000
45 (10) Ocean Isle Beach Renourishment (Brunswick County)	813,000
46 (11) Bogue Banks Shore Protection Study (Carteret County)	200,000
47 (12) Surf City/North Topsail Beach Protection Study	150,000
48 (13) Princeville Flood Control Study	400,000
49 (14) West Onslow Beach (Topsail)	75,000
50 (15) Deep Creek (Yadkin County) Watershed Management	1,500,000
51 (16) State Local Projects	2,500,000
52 (17) Currituck Sound Water Management Study	150,000
53 (18) Aquatic Weed Control, Lake Gaston and Statewide	300,000
54 (19) Swan Quarter (Hyde County) Flood Control Dikes	100,000
55 (20) Little Sugar Creek Restoration (Mecklenburg County)	20,000

1	(21)	Neuse River Basin Feasibility Study	100,000
2	(22)	Environmental Restoration Projects	700,000
3	(23)	Projected Feasibility Studies	100,000
4	(24)	Planning Assistance to Communities	<u>150,000</u>
5			
6	TOTAL		\$27,601,000

7
8 **SECTION 31.2.(b)** Where the actual costs are different from the estimated
9 costs under subsection (a) of this section, the Department may adjust the allocations
10 among projects as needed. If any projects funded under subsection (a) of this section
11 are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal
12 year, or if the projects funded under subsection (a) of this section are accomplished at a
13 lower cost, the Department may use the resulting fund availability to fund any of the
14 following:

- 15 (1) Corps of Engineers project feasibility studies.
- 16 (2) Corps of Engineers projects whose schedules have advanced and
17 require State-matching funds in fiscal year 2003-2004.
- 18 (3) State-local water resources development projects.

19 Funds not expended or encumbered for these purposes shall revert to the
20 General Fund at the end of the 2004-2005 fiscal year.

21 **SECTION 31.2.(c)** The Department shall make quarterly reports on the use
22 of these funds to the Joint Legislative Commission on Governmental Operations, the
23 Fiscal Research Division, and the Office of State Budget and Management. Each report
24 shall include all of the following:

- 25 (1) All projects listed in this section.
- 26 (2) The estimated cost of each project.
- 27 (3) The date that work on each project began or is expected to begin.
- 28 (4) The date that work on each project was completed or is expected to be
29 completed.
- 30 (5) The actual cost of each project.

31 The quarterly reports shall also show those projects advanced in schedule,
32 those projects delayed in schedule, and an estimate of the amount of funds expected to
33 revert to the General Fund.

34 **SECTION 31.2.(d)** Notwithstanding G.S. 143-23, if additional federal funds
35 that require a State match are received for water resources projects or for beach
36 renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may,
37 after consultation with the Joint Legislative Commission on Governmental Operations,
38 transfer funds from General Fund appropriations to match the federal funds.
39

40 Requested by: Senators Garrou, Dalton, Hagan

41 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

42 **SECTION 31.3.** The appropriations made by the 2003 General Assembly
43 for capital improvements shall be disbursed for the purposes provided by this act.
44 Expenditure of funds shall not be made by any State department, institution, or agency
45 until an allotment has been approved by the Governor as Director of the Budget. The
46 allotment shall be approved only after full compliance with the Executive Budget Act,
47 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction
48 contracts for projects to be financed in whole or in part with self-liquidating
49 appropriations, the Director of the Budget shall approve the elements of the method of
50 financing of those projects including the source of funds, interest rate, and liquidation
51 period. Provided, however, that if the Director of the Budget approves the method of
52 financing a project, the Director shall report that action to the Joint Legislative
53 Commission on Governmental Operations at its next meeting.

54 Where direct capital improvement appropriations include the purpose of
55 furnishing fixed and movable equipment for any project, those funds for equipment

1 shall not be subject to transfer into construction accounts except as authorized by the
2 Director of the Budget. The expenditure of funds for fixed and movable equipment and
3 furnishings shall be reviewed and approved by the Director of the Budget prior to
4 commitment of funds.

5 Capital improvement projects authorized by the 2003 General Assembly shall
6 be completed, including fixed and movable equipment and furnishings, within the limits
7 of the amounts of the direct or self-liquidating appropriations provided, except as
8 otherwise provided in this act. Capital improvement projects authorized by the 2003
9 General Assembly for the design phase only shall be designed within the scope of the
10 project as defined by the approved cost estimate filed with the Director of the Budget,
11 including costs associated with site preparation, demolition, and movable and fixed
12 equipment.

13
14 Requested by: Senators Garrou, Dalton, Hagan

15 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

16 **SECTION 31.4.** When each capital improvement project appropriated by the
17 2003 General Assembly, other than those projects under the Board of Governors of The
18 University of North Carolina, is placed under a construction contract, direct
19 appropriations shall be encumbered to include all costs for construction, design,
20 investigation, administration, movable equipment, and a reasonable contingency.
21 Unencumbered direct appropriations remaining in the project budget shall be placed in a
22 project reserve fund credited to the Office of State Budget and Management. Funds in
23 the project reserve may be used for emergency repair and renovation projects at State
24 facilities with the approval of the Director of the Budget. The project reserve fund may
25 be used, at the discretion of the Director of the Budget, to allow for award of contracts
26 where bids exceed appropriated funds, if those projects supplemented were designed
27 within the scope intended by the applicable appropriation or any authorized change in it,
28 and if, in the opinion of the Director of the Budget, all means to award contracts within
29 the appropriation were reasonably attempted. At the discretion of the Director of the
30 Budget, any balances in the project reserve fund shall revert to the original source.

31
32 Requested by: Senators Garrou, Dalton, Hagan

33 **EXPENDITURES OF FUNDS FROM THE RESERVE FOR REPAIRS AND**
34 **RENOVATIONS**

35 **SECTION 31.5.** Of the funds in the Reserve for Repairs and Renovations
36 for the 2003-2004 fiscal year, forty-six percent (46%) shall be allocated to the Board of
37 Governors of The University of North Carolina for repairs and renovations pursuant to
38 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
39 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
40 approved by the Board of Governors of The University of North Carolina, and fifty-four
41 percent (54%) shall be allocated to the Office of State Budget and Management for
42 repairs and renovations pursuant to G.S. 143-15.3A.

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

49 Notwithstanding G.S. 143-15.3A, the Office of State Budget and
50 Management shall allocate funds from the Reserve to complete the construction of
51 State-owned facilities that are partially completed; the remainder of funds shall be
52 allocated for other repairs and renovations projects.

53 The Board of Governors and the Office of State Budget and Management
54 shall submit to the Joint Legislative Commission on Governmental Operations and to
55 the Fiscal Research Division of the Legislative Services Office, for their review, the

1 proposed allocations of these funds. Subsequent changes in the proposed allocations
2 shall be reported prior to expenditure to the Joint Legislative Commission on
3 Governmental Operations and to the Fiscal Research Division of the Legislative
4 Services Office.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **PROJECT COST INCREASE**

8 **SECTION 31.7.** Upon the request of the administration of a State agency,
9 department, or institution, the Director of the Budget may, when in the Director's
10 opinion it is in the best interest of the State to do so, increase the cost of a capital
11 improvement project. Provided, however, that if the Director of the Budget increases
12 the cost of a project, the Director shall report that action to the Joint Legislative
13 Commission on Governmental Operations at its next meeting. The increase may be
14 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
15 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
16 direct capital improvement appropriations to that department or institution.

17
18 Requested by: Senators Garrou, Dalton, Hagan

19 **NEW PROJECT AUTHORIZATION**

20 **SECTION 31.8.** Upon the request of the administration of any State agency,
21 department, or institution, the Director of the Budget may authorize the construction of
22 a capital improvement project not specifically authorized by the General Assembly if
23 such project is to be funded by gifts, federal or private grants, special fund receipts,
24 excess patient receipts above those budgeted at the University of North Carolina
25 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
26 construction of a capital improvement project pursuant to this section, the Director shall
27 consult with the Joint Legislative Commission on Governmental Operations.

28
29 Requested by: Senators Garrou, Dalton, Hagan

30 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

31 **SECTION 31.9.** Funds that become available by gifts, excess patient
32 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
33 Hill, federal or private grants, receipts becoming a part of special funds by act of the
34 General Assembly, or any other funds available to a State department or institution may
35 be utilized for advance planning through the working drawing phase of capital
36 improvement projects, upon approval of the Director of the Budget. The Director of the
37 Budget may make allocations from the Advance Planning Fund for advance planning
38 through the working drawing phase of capital improvement projects, except that this
39 revolving fund shall not be utilized by the Board of Governors of The University of
40 North Carolina or the State Board of Community Colleges.

41
42 Requested by: Senators Garrou, Dalton, Hagan

43 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

44 **SECTION 31.10.** Except as permitted in previous sections of this act, the
45 appropriations for capital improvements made by the 2003 General Assembly may be
46 expended only for specific projects set out by the 2003 General Assembly and for no
47 other purpose. Construction of all capital improvement projects enumerated by the
48 2003 General Assembly shall be commenced, or self-liquidating indebtedness with
49 respect to them shall be incurred, within 12 months following the first day of the fiscal
50 year in which the funds are available. If construction contracts on those projects have
51 not been awarded or self-liquidating indebtedness has not been incurred within that
52 period, the direct appropriation for those projects shall revert to the original source, and
53 the self-liquidating appropriation shall lapse; except that direct appropriations may be
54 placed in a reserve fund as authorized in this act. This deadline with respect to both
55 direct and self-liquidating appropriations may be extended with the approval of the

1 Director of the Budget up to an additional 12 months if circumstances and conditions
2 warrant such extension.

3 4 **PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION**

5
6 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

7 **SECTION 32.1.(a)** The percentage rate to be used in calculating the public
8 utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%)
9 for each public utility's North Carolina jurisdictional revenues earned during each
10 quarter that begins on or after July 1, 2003.

11 **SECTION 32.1.(b)** The electric membership corporation regulatory fee
12 imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand
13 dollars (\$200,000).

14 **SECTION 32.1.(c)** This section becomes effective July 1, 2003.

15 16 **PART XXXIII. INSURANCE REGULATORY CHARGE**

17
18 Requested by: Senators Swindell, Garrou, Dalton, Hagan

19 **SECTION 33.1.(a)** The percentage rate to be used in calculating the
20 insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2003
21 calendar year.

22 **SECTION 33.1.(b)** This section is effective when it becomes law.

23 24 **PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES**

25
26 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

27 **SECTION 34.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

28 "(b) Licensure; inspections. –

29 (1) The Department of Health and Human Services shall inspect and
30 license, under rules adopted by the Medical Care Commission, all
31 adult care homes for persons who are aged or mentally or physically
32 disabled except those exempt in subsection (c) of this section. Licenses
33 issued under the authority of this section shall be valid for one year
34 from the date of issuance unless revoked earlier by the Secretary for
35 failure to comply with any part of this section or any rules adopted
36 hereunder. Licenses shall be renewed annually upon filing and the
37 Department's approval of the renewal application. The Department
38 shall charge each adult care home with six or fewer beds a
39 nonrefundable annual license fee in the amount of two hundred fifty
40 dollars (\$250.00). The Department shall charge each adult care home
41 with more than six beds a nonrefundable annual license fee in the
42 amount of three hundred fifty dollars (\$350.00) plus a nonrefundable
43 annual per-bed fee of twelve dollars and fifty cents (\$12.50). A license
44 shall not be renewed if outstanding ~~fees~~ ~~fees~~, ~~fees~~, and penalties
45 imposed by the State against the home have not been paid. Fines and
46 penalties for which an appeal is pending are exempt from
47 consideration. The renewal application shall contain all necessary and
48 reasonable information that the Department may by rule require.
49 Except as otherwise provided in this subdivision, the Department may
50 amend a license by reducing it from a full license to a provisional
51 license for a period of not more than 90 days whenever the Department
52 finds that:

53 a. The licensee has substantially failed to comply with the
54 provisions of Articles 1 and 3 of Chapter 131D of the General
55 Statutes and the rules adopted pursuant to these Articles;

- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
 - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 - 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
 - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 - 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 34.1.(b) This section becomes effective October 1, 2003.

SECTION 34.2.(a) G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>General Acute Hospitals:</u>	<u>1-49 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
	<u>50-99 beds</u>	<u>\$350.00</u>	<u>\$12.50</u>
	<u>100-199 beds</u>	<u>\$450.00</u>	<u>\$12.50</u>

200-399 beds	\$550.00	\$12.50
400-699 beds	\$750.00	\$12.50
700+ beds	\$950.00	\$12.50
<u>Other Hospitals:</u>	<u>\$500.00</u>	<u>\$12.50."</u>

SECTION 34.2.(b) This section becomes effective October 1, 2003.

SECTION 34.3.(a) G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents (\$12.50)."

SECTION 34.3.(b) This section becomes effective October 1, 2003.

SECTION 34.4.(a) G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars (\$350.00)."

SECTION 34.4.(b) This section becomes effective October 1, 2003.

SECTION 34.5.(a) G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of seven hundred dollars (\$700.00) plus a nonrefundable annual per-operating room fee in the amount of fifty dollars (\$50.00)."

SECTION 34.5.(b) This section becomes effective October 1, 2003.

SECTION 34.6.(a) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~ one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of two hundred fifty dollars (\$250.00)."

SECTION 34.6.(b) This section becomes effective October 1, 2003.

SECTION 34.7.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of seven hundred dollars (\$700.00)."

SECTION 34.7.(b) This section becomes effective October 1, 2003.

SECTION 34.8.(a) G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Type of Facility</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>Facilities (non-ICF/MR):</u>	<u>6 or fewer beds</u>	<u>\$250.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
<u>ICF/MR Only:</u>	<u>6 or fewer beds</u>	<u>\$650.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$650.00</u>	<u>\$12.50."</u>

SECTION 34.8.(b) This section becomes effective October 1, 2003.

SECTION 34.9.(a) Part 3 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed fee in the amount of twelve dollars and fifty cents (\$12.50)."

SECTION 34.9.(b) This section becomes effective October 1, 2003.

SECTION 34.10. Reserved.

SECTION 34.11.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-267. Fees for departmental review of health care facility construction projects.

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars (\$25,000) for any single project:

<u>Institutional Project</u>	<u>Project Fee</u>
<u>Hospitals</u>	<u>\$300.00 plus \$0.20/square foot of project space</u>
<u>Nursing Homes</u>	<u>\$250.00 plus \$0.15/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Psychiatric Hospital</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Adult Care Home more than 7 beds</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>

<u>Residential Project</u>	<u>Project Fee</u>
<u>Family Care Homes</u>	<u>\$175.00 flat fee</u>
<u>ICF/MR Group Homes</u>	<u>\$275.00 flat fee</u>
<u>Group Homes: 1-3 beds</u>	<u>\$100.00 flat fee</u>
<u>Group Homes: 4-6 beds</u>	<u>\$175.00 flat fee</u>
<u>Group Homes: 7-9 beds</u>	<u>\$225.00 flat fee</u>
<u>Other residential:</u>	
<u>More than 9 beds</u>	<u>\$225.00 plus \$0.075/square foot of project space."</u>

SECTION 34.11.(b) This section becomes effective October 1, 2003.

SECTION 34.12.(a) G.S. 110-90 reads as rewritten:

"§ 110-90. Powers and duties of Secretary of Health and Human Services.

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

(1a) To establish a fee for the licensing of child care centers. The fee does not apply to a religious-sponsored child care center operated pursuant to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

<u>Capacity of Center</u>	<u>Maximum Fee</u>
<u>12 or fewer children</u>	<u>\$ 35.00</u>
<u>13-50 children</u>	<u>\$125.00</u>
<u>51-100 children</u>	<u>\$250.00</u>
<u>101 or more children</u>	<u>\$400.00</u>

- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.
- (5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) Repealed by Session Laws 1997-506, s. 5.
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

SECTION 34.12.(b) This section becomes effective October 1, 2003.

SECTION 34.13. Reserved.

PART XXXV. FEES FOR DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Senators Weinstein, Garrou, Dalton, Hagan

SECTION 35.1.(a) G.S. 113-34(c) reads as rewritten:

"(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:

- (1) The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.
- (2) Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.
- (3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area."

SECTION 35.1.(b) Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after the effective date of this section.

SECTION 35.1.(c) This section becomes effective July 1, 2003.

SECTION 35.2.(a) G.S. 130A-294.1(e) reads as rewritten:

"(e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000)."

SECTION 35.2.(b) G.S. 130A-294.1(f) reads as rewritten:

"(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of ~~twenty five dollars (\$25.00)~~ one hundred twenty-five dollars (\$125.00)."

SECTION 35.2.(c) This section becomes effective July 1, 2003.

SECTION 35.3.(a) The Board of Agriculture shall charge the following fees for animal disease diagnostic tests or services:

<u>Test/Service</u>	<u>Fee</u>
(1) Pullorum	\$0.10
(2) M Synoviae	0.50
(3) M. meleagridis	0.50
(4) Necropsy	25.00
(5) M Gallisep.	0.50
(6) Mg,Ms,Mm-HI	1.00
(7) Histopathology	15.00
(8) Cytology	10.00
(9) Necropsy Disposal	
10 to 100 pounds	5.00
101 to 500 pounds	15.00
More than 500 pounds	30.00
(10) Companion Animal Culture	10.00

SECTION 35.3.(b) The Board of Agriculture shall, pursuant to G.S. 106-420, charge a fee of fifty dollars (\$50.00) for nursery dealer certification.

SECTION 35.3.(c) This section becomes effective July 1, 2003.

SECTION 35.4.(a) G.S. 143-452(b) reads as rewritten:

"(b) Applications for pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied

1 by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each
2 pesticide applicator's license. In addition, an annual inspection fee of ~~ten dollars~~
3 ~~(\$10.00)~~ twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed.
4 Should any aircraft fail to pass inspection, making it necessary for a second inspection
5 to be made, the Board shall require an additional ~~ten dollar (\$10.00)~~ twenty-five dollar
6 (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections
7 may be made without charge to determine if equipment is properly calibrated and
8 maintained in conformance with the laws and regulations. All aircraft licensed to apply
9 pesticides shall be identified by a license plate or decal furnished by the Board at no
10 cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and
11 manner prescribed by the Board. No applicator inspection or license fee, original or
12 renewal, shall be charged to State agencies or local governments or their employees.
13 Inspections of ground pesticide application equipment may be made. Any such
14 equipment determined to be faulty or unsafe shall not be used for the purpose of
15 applying a pesticide(s) until such time as proper repairs and/or alterations are made."

16 **SECTION 35.4.(b)** G.S. 143-448(b) reads as rewritten:

17 "(b) Applications for a pesticide dealer license shall be in the form and shall
18 contain the information prescribed by the Board. Each application shall be accompanied
19 by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). All licenses
20 issued under this Part shall expire on December 31 of the year for which they are
21 issued."

22 **SECTION 35.4.(c)** G.S. 143-448(c) reads as rewritten:

23 "(c) The license for a pesticide dealer may be renewed annually upon application
24 to the Board, accompanied by a fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for
25 each license, on or before the first day of January of the calendar year for which the
26 license is issued."

27 **SECTION 35.4.(d)** G.S. 143-455(a) reads as rewritten:

28 "(a) No person shall perform services as a pest control consultant without first
29 procuring from the Board a license. Applications for a consultant license shall be in the
30 form and shall contain the information prescribed by the Board. The application for a
31 license shall be accompanied by a non-refundable annual fee of ~~thirty dollars~~
32 ~~(\$30.00)~~ fifty dollars (\$50.00)."

33 **SECTION 35.4.(e)** G.S. 143-442(b) reads as rewritten:

34 "(b) The applicant shall pay an annual registration fee of ~~thirty dollars (\$30.00)~~
35 one hundred dollars (\$100.00) plus an additional annual assessment for each brand or
36 grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the
37 applicant's gross sales of the pesticide in this State for the preceding 12 months for the
38 period ending September 30th were more than five thousand dollars (\$5,000.00) and
39 twenty-five dollars (\$25.00) if gross sales were less than five thousand dollars
40 (\$5,000.00). An additional two hundred dollars (\$200.00) delinquent registration
41 penalty shall be assessed against the registrant for each brand or grade of pesticide
42 which is marketed in North Carolina prior to registration as required by this Article. In
43 the case of multi-year registration, the annual fee and additional assessment for each
44 year shall be paid at the time of the initial registration. The Board shall give a pro rata
45 refund of the registration fee and additional assessment to the registrant in the event that
46 registration is canceled by the Board or by the United States Environmental Protection
47 Agency."

48 **SECTION 35.4.(f)** This section becomes effective July 1, 2003.

49 **SECTION 35.5.(a)** G.S. 113-35(b) reads as rewritten:

50 "(b) The Department may construct and operate within the State forests, State
51 parks, State lakes and any other areas under its charge suitable public service facilities
52 and conveniences, and may charge and collect reasonable fees for the use of same; it
53 may also charge and collect reasonable fees for:

- 1 (1) The erection, maintenance and use of docks, piers and such other
- 2 structures as may be permitted in or on State lakes under its own
- 3 ~~rules; rules.~~
- 4 (2) Hunting privileges on State forests and fishing privileges in State
- 5 forests, State parks and State lakes, provided that such privileges shall
- 6 be extended only to holders of bona fide North Carolina hunting and
- 7 fishing licenses, and provided further that all State game and fish laws
- 8 are complied with.
- 9 (3) The erection, maintenance, and use of a marina at Carolina Beach."

10 **SECTION 35.5.(b)** G.S. 113-35(c) reads as rewritten:

11 "(c) The Department may make reasonable rules for the operation ~~and use~~ of boats

12 or other craft on the surface of the ~~said waters but shall not be authorized to charge or~~

13 ~~collect fees for such operation or use.~~ lakes and other waters under its charge. The

14 Department may charge and collect reasonable fees for the use of boats and other

15 watercraft that are purchased and maintained by the Department; however, the

16 Department shall not charge a fee for the use or operation of any other boat or

17 watercraft on these waters."

18 **SECTION 35.5.(c)** The Department of Environment and Natural Resources

19 shall, pursuant to G.S. 113-35(b), as amended by subsections (a) and (b) of this section,

20 charge the following fees for the use of public service facilities and conveniences

21 located in State forests, State parks, State lakes, and other areas under the charge of the

22 Division of Parks and Recreation:

<u>Facility/Convenience</u>	<u>Fee</u>
24 Special activity permit	\$ 30.00
25 Swimming fees/Adult	\$ 4.00
26 Swimming fees/Child	\$ 3.00
27 State Lake private pier permit, based on length of pier,	
28 Average per year	\$ 80.00
29 State Lake commercial pier permit, based on length of pier	
30 Average per year	\$ 200.00
31 Admission fee for Falls and Jordan Lakes per car	\$ 5.00
32 Sr. Citizen admission fee for Falls and Jordan Lakes per car	\$ 4.00
33 Hammocks Beach Ferry fee/Adult	\$ 5.00
34 Hammocks Beach Ferry fee/Child	\$ 3.00
35 Fees for camping per night	\$ 15.00
36 Fees for camping with hookups per night	\$ 20.00
37 Fees for primitive camping per night	\$ 9.00
38 Fees for primitive group camping	
39 \$ 1.00 Per person per night	
40 Minimum per night	\$ 9.00
41 Rental fees for improved group camping, maximum of 35	\$ 40.00
42 Rental fees for improved group camping, maximum of 100	\$ 105.00
43 Rental fees for family cabin per week	\$ 500.00
44 Rental fees for family cabin per day	\$ 100.00
45 Carolina Bch. Marina rental fee for transient rentals,	
46 based on length of boat	
47 Average fee per night	\$ 20.00
48 Carolina Bch. Marina rental fee for long-term rentals,	
49 based on length of boat	
50 Average fee per year	\$2,500.00
51 Boat rental fee for rowboats	
52 First hour	\$ 5.00
53 Each additional hour	\$ 3.00
54 Boat rental fee for paddle boats	
55 First hour	\$ 5.00

1	Each additional hour	\$ 3.00
2	Picnic shelter rental fee/2-table shelter	\$ 25.00
3	Picnic shelter rental fee/4-table shelter	\$ 40.00
4	Picnic shelter rental fee/8-table shelter	\$ 60.00
5	Picnic shelter rental fee/12-table shelter	\$ 85.00

6 **SECTION 35.5.(d)** Nothing in this section shall prohibit the Department of
7 Environment and Natural Resources from amending the fees under subsection (c) of this
8 section pursuant to Chapter 150B of the General Statutes.

9 **SECTION 35.5.(e)** Subsection (c) of this section becomes effective January
10 1, 2004. The remainder of this section becomes effective July 1, 2003.

11 12 **PART XXXV-A. DEPARTMENT OF CULTURAL RESOURCES FEES**

13
14 Requested by: Senators Swindell, Garrou, Dalton, Hagan

15 **SECTION 35A.1.** G.S. 105-129.35 reads as rewritten:

16 "**§ 105-129.35. Credit for rehabilitating income-producing historic structure.**

17 (a) Credit. – A taxpayer who is allowed a federal income tax credit under section
18 47 of the Code for making qualified rehabilitation expenditures for a certified historic
19 structure located in this State is allowed a credit equal to twenty percent (20%) of the
20 expenditures that qualify for the federal credit. To claim the credit allowed by this
21 subsection, the taxpayer must provide a copy of the certification obtained from the State
22 Historic Preservation Officer verifying that the historic structure has been rehabilitated
23 in accordance with this subsection.

24 (b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S.
25 105-269.15, a pass-through entity that qualifies for the credit provided in this section
26 may allocate the credit among any of its owners in its discretion as long as the amount
27 of credit allocated to an owner does not exceed the owner's adjusted basis in the
28 pass-through entity, as determined under the Code, at the end of the taxable year in
29 which the certified historic structure is placed in service. Owners to whom a credit is
30 allocated are allowed the credit as if they had qualified for the credit directly. A
31 pass-through entity and its owners must include with their tax returns for every taxable
32 year in which an allocated credit is claimed a statement of the allocation made by the
33 pass-through entity and the allocation that would have been required under G.S.
34 105-131.8 or G.S. 105-269.15.

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

36 (1) Certified historic structure. – Defined in section 47 of the Code.

37 (2) Pass-through entity. – An entity or business, including a limited
38 partnership, a general partnership, a joint venture, a Subchapter S
39 Corporation, or a limited liability company, all of which is treated as
40 owned by individuals or other entities under the federal tax laws, in
41 which the owners report their share of the income, losses, and credits
42 from the entity or business on their income tax returns filed with this
43 State. For the purpose of this section, an owner of a pass-through
44 entity is an individual or entity who is treated as an owner under the
45 federal tax laws.

46 (3) Qualified rehabilitation expenditures. – Defined in section 47 of the
47 Code.

48 (4) State Historic Preservation Officer. – Defined in G.S. 105-129.6."

49 **SECTION 35A.2.** G.S. 105-129.36(c) is recodified as G.S. 105-129.36A and
50 reads as rewritten:

51 "**§ 105-129.36A. ~~Rules.~~ Rules; fees.**

52 (a) Rules. – The North Carolina Historical Commission, in consultation with the
53 State Historic Preservation Officer, may adopt rules needed to administer the
54 certification process required by this section.

1 (b) Fees. – The North Carolina Historical Commission, in consultation with the
2 State Historic Preservation Officer, may adopt a schedule of fees for providing
3 certifications required by this Article. In establishing the fee schedule, the Commission
4 shall consider the administrative and personnel costs incurred by the Department of
5 Cultural Resources. An application fee may not exceed one percent (1%) of the
6 completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts
7 of the Department of Cultural Resources and must be used for performing its duties
8 under this Article."

9 **SECTION 35A.3.** G.S. 105-129.36(a) reads as rewritten:

10 "(a) Credit. – A taxpayer who is not allowed a federal income tax credit under
11 section 47 of the Code and who makes rehabilitation expenses for a State-certified
12 historic structure located in this State is allowed a credit equal to thirty percent (30%) of
13 the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation
14 expenses must exceed twenty-five thousand dollars (\$25,000) within a 24-month period.
15 To claim the credit allowed by this subsection, the taxpayer must ~~attach to the~~
16 ~~return~~ provide a copy of the certification obtained from the State Historic Preservation
17 Officer verifying that the historic structure has been rehabilitated in accordance with
18 this subsection."

19 **SECTION 35A.4.** Article 1 of Chapter 121 of the General Statutes is
20 amended by adding a new section to read:

21 "**§ 121-7.3. Admission fees.**

22 The Department of Cultural Resources may charge a reasonable admission fee to
23 any museum administered by the Department. Admission fees collected under this
24 section are receipts of the Department and shall be deposited in a nonreverting account.
25 The Department shall retain unbudgeted receipts at the end of each fiscal year,
26 beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the
27 account shall be used to support a portion of each museum's operation. The Secretary
28 may adopt rules necessary to carry out the provisions of this section. The Department
29 shall provide a quarterly report to the Joint Legislative Commission on Governmental
30 Operations as the Department's or museums' anticipated use of funds or expend funds
31 pursuant to this section."

32 33 **PART XXXV-B. SECRETARY OF STATE FEES**

34 **SECTION 35B.1.(a)** G.S. 25-9-525(a) reads as rewritten:

35 "(a) Initial financing statement or other record: general rule. – Except as otherwise
36 provided in subsection (e) of this section, the fee for filing and indexing a record under
37 this Part is:

- 38 (1) ~~Thirty dollars (\$30.00)~~ Thirty-eight dollars (\$38.00) if the record is
39 communicated in writing and consists of one or two pages;
- 40 (2) Forty-five dollars (\$45.00) if the record is communicated in writing
41 and consists of more than two pages, plus two dollars (\$2.00) for each
42 page over 10 pages; and
- 43 (3) Thirty dollars (\$30.00) if the record is communicated by another
44 medium authorized by filing-office rule."

45 **SECTION 35B.1.(b)** This section becomes effective July 1, 2003.

46 47 **PART XXXVI. RESERVED**

48 49 **PART XXXVI-A. JUSTICE AND PUBLIC SAFETY FEES**

50
51 Requested by: Senators Thomas, Garrou, Dalton, Hagan

52 **SECTION 36A.1.** G.S. 7A-37.1 is amended by adding a new subsection to
53 read:

54 "(c1) In cases referred to nonbinding arbitration as provided in this section, a fee of
55 one hundred dollars (\$100.00) shall be assessed per arbitration, to be divided equally

1 among the parties, to cover the cost of providing arbitrators. Fees assessed under this
2 section shall be paid to the clerk of superior court in the county where the case was filed
3 and remitted by the clerk to the State Treasurer."

4 **SECTION 36A.2.** G.S. 7A-305(a)(2) reads as rewritten:

5 "(2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
6 ~~dollars (\$69.00)~~ eighty-two dollars (\$82.00) in the superior court, and
7 the sum of ~~fifty-four dollars (\$54.00)~~ seventy-five dollars (\$75.00) in
8 the district court except that if the case is assigned to a magistrate the
9 sum shall be forty-three dollars (\$43.00). Sums collected under this
10 subdivision shall be remitted to the State Treasurer. The State
11 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of
12 each fee collected under this subdivision to the North Carolina State
13 Bar for the provision of services described in G.S. 7A-474.4."

14 **SECTION 36A.3.** G.S. 7A-306(a)(2) reads as rewritten:

15 "(2) For support of the General Court of Justice the sum of ~~thirty dollars~~
16 ~~(\$30.00)~~, forty-three dollars (\$43.00). In addition, in proceedings
17 involving land, except boundary disputes, if the fair market value of
18 the land involved is over one hundred dollars (\$100.00), there shall be
19 an additional sum of thirty cents (30¢) per one hundred dollars
20 (\$100.00) of value, or major fraction thereof, not to exceed a
21 maximum additional sum of two hundred dollars (\$200.00). Fair
22 market value is determined by the sale price if there is a sale, the
23 appraiser's valuation if there is no sale, or the appraised value from the
24 property tax records if there is neither a sale nor an appraiser's
25 valuation. Sums collected under this subdivision shall be remitted to
26 the State Treasurer. The State Treasurer shall remit the sum of one
27 dollar and five cents (\$1.05) of each thirty-dollar (\$30.00) General
28 Court of Justice fee collected under this subdivision to the North
29 Carolina State Bar for the provision of services described in G.S.
30 7A-474.4."

31 **SECTION 36A.4.** G.S. 7A-307(a)(2) reads as rewritten:

32 "(2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
33 ~~(\$30.00)~~, forty-three dollars (\$43.00), plus an additional forty cents
34 (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of
35 the gross estate, not to exceed three thousand dollars (\$3,000). Gross
36 estate shall include the fair market value of all personalty when
37 received, and all proceeds from the sale of realty coming into the
38 hands of the fiduciary, but shall not include the value of realty. In
39 collections of personal property by affidavit, the fee based on the gross
40 estate shall be computed from the information in the final affidavit of
41 collection made pursuant to G.S. 28A-25-3 and shall be paid when that
42 affidavit is filed. In all other cases, this fee shall be computed from the
43 information reported in the inventory and shall be paid when the
44 inventory is filed with the clerk. If additional gross estate, including
45 income, comes into the hands of the fiduciary after the filing of the
46 inventory, the fee for such additional value shall be assessed and paid
47 upon the filing of any account or report disclosing such additional
48 value. For each filing the minimum fee shall be fifteen dollars
49 (\$15.00). Sums collected under this subdivision shall be remitted to the
50 State Treasurer. The State Treasurer shall remit the sum of one dollar
51 and five cents (\$1.05) of each thirty-dollar (\$30.00) General Court of
52 Justice fee collected under this subdivision to the North Carolina State
53 Bar for the provision of services described in G.S. 7A-474.4."

54 **SECTION 36A.5.** This Part becomes effective July 1, 2003, and applies to
55 fees assessed or collected on or after that date.

1
2 **PART XXXVII. ADJUST LOCAL GOVERNMENT HOLD HARMLESS**
3

4 Requested by: Senators Garrou, Dalton, Hagan

5 **SECTION 37.1.** G.S. 105-521 reads as rewritten:

6 "**§ 105-521. Transitional local government hold harmless.**

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

- 8 (1) Local government. – A county or municipality that received a
9 distribution of local sales taxes in the most recent fiscal year for which
10 a local sales tax share has been calculated.
11 (2) Local sales tax share. – A local government's percentage share of the
12 two-cent (2¢) sales taxes distributed during the most recent fiscal year
13 for which data are available.
14 (3) Repealed reimbursement amount. – The total amount a local
15 government would have been entitled to receive during the 2002-2003
16 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,
17 105-277.001, and 105-277.1A, if the Governor had not withheld any
18 distributions under those sections.
19 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax
20 authorized in Article 39 of this Chapter and in Chapter 1096 of the
21 1967 Session Laws, the first one-half cent (1/2¢) local sales and use
22 tax authorized in Article 40 of this Chapter, and the second one-half
23 cent (1/2¢) local sales and use tax authorized in Article 42 of this
24 Chapter.

25 (b) Distributions. – On or before ~~September~~August 15, 2003, and each
26 ~~September~~August 15 thereafter, the Secretary must multiply each local government's
27 local sales tax share by the estimated amount that all local governments would be
28 expected to receive during the current fiscal year under G.S. 105-520 if every county
29 levied the tax under this Article for the year. If the resulting amount is less than one
30 hundred percent (100%) of the local government's repealed reimbursement amount, the
31 Secretary must pay the local government the difference, but not less than one hundred
32 dollars (\$100.00).

33 On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget
34 and Management and the Fiscal Research Division of the General Assembly must each
35 submit to the Secretary and to the General Assembly a final projection of the estimated
36 amount that all local governments would be expected to receive during the upcoming
37 fiscal year under G.S. 105-520 if every county levied the tax under this Article for the
38 fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would
39 affect the projection, an updated projection must be submitted as soon as practicable. If
40 the Secretary does not use the lower of the two final projections to make the calculation
41 required by this subsection, the Secretary must report the reasons for this decision to the
42 Joint Legislative Commission on Governmental Operations within 60 days after
43 receiving the projections.

44 (c) Source of Funds. – The Secretary must draw the funds distributed under this
45 section from sales and use tax collections under Article 5 of this Chapter.

46 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee
47 by January 31, 2004, and each January 31 thereafter, the amount distributed under this
48 section for the current fiscal year."

49 **SECTION 37.2.** Effective January 1, 2008, G.S. 105-521 is repealed.
50

51 **PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE**
52

53 Requested by: Senators Garrou, Dalton, Hagan

54 **SECTION 38.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"SECTION 34.13.(c) This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, ~~2005, 2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Requested by: Senators Garrou, Dalton, Hagan

SECTION 39.1. Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000 NA	7.75%
\$200,000	NA	8.25%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000 NA	7.75%
\$160,000	NA	8.25%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000 NA	7.75%
\$120,000	NA	8.25%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000 NA	7.75%
\$100,000	NA	8.25%

SECTION 39.2. Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"SECTION 34.18.(b) This section becomes effective for taxable years beginning on or after January 1, 2001, ~~and expires for taxable years beginning on or after January 1, 2004, 2001.~~ Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

**PART XXXIX-A. DELAY ELIMINATION OF THE MARRIAGE TAX
PENALTY FOR STANDARD DEDUCTION**

Requested by: Senators Garrou, Dalton, Hagan

SECTION 39A.1. The introductory language of Section 34.19(a) of S.L. 2001-424, as amended by Section 30B.1(a) of S.L. 2002-126, reads as rewritten:

"**SECTION 34.19.(a)** Effective for taxable years beginning on or after January 1, ~~2003, 2006~~, G.S. 105-134.6(c)(3) and (4) reads as rewritten:"

SECTION 39A.2. The introductory language of Section 34.19(b) of S.L. 2001-424, as amended by Section 30B.1(b) of S.L. 2002-126, reads as rewritten:

"**SECTION 34.19.(b)** Effective for taxable years beginning on or after January 1, ~~2004, 2007~~, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:"

**PART XXXIX-B. CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT
AND DELAY INCREASE IN CHILD TAX CREDIT**

Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

SECTION 39B.1. Section 34.20 of S.L. 2001-424, as amended by Section 30B.2 of S.L. 2002-126, is repealed.

SECTION 39B.2. G.S. 105-151.24, as amended by Section 39B.1 of this act, reads as rewritten:

"**§ 105-151.24. Credit for children.**

(a) Eligibility. – An individual who is allowed a federal child tax credit under section 24 of the Code for the taxable year and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part ~~in an amount equal to sixty dollars (\$60.00) for each dependent child for whom the individual was is allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code~~ the federal credit for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.
 (b) <u>Credit Amount.</u> – The amount of the credit is as follows:	
	<u>Credit</u>
<u>After 2002 but before 2006</u>	<u>\$ 60.00</u>
<u>In 2006</u>	<u>75.00</u>
<u>After 2006</u>	<u>100.00</u>

(c) Nonresident or Part-Year Resident. – A nonresident or part-year resident who claims the credit allowed by this section ~~shall~~ must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 39B.3. This part becomes effective for taxable years beginning on or after January 1, 2003.

PART XL. RESERVED

PART XLI. RESERVED

PART XLII. RESERVED

1 **PART XLIII. EQUALIZE INSURANCE TAX RATES ON ARTICLE 65**
2 **CORPORATIONS**
3

4 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

5 **SECTION 43.1.** G.S. 105-228.5(d) reads as rewritten:

6 "(d) Tax Rates; Disposition. –

- 7 (1) Workers' Compensation. – The tax rate to be applied to gross
8 premiums, or the equivalent thereof in the case of self-insurers, on
9 contracts applicable to liabilities under the Workers' Compensation
10 Act is two and five-tenths percent (2.5%). The net proceeds shall be
11 credited to the General Fund.
- 12 (2) Other Insurance Contracts. – The tax rate to be applied to gross
13 premiums on all other taxable contracts issued by insurers and to be
14 applied to gross premiums and gross collections from membership
15 dues, exclusive of receipts from cost plus plans, received by Article 65
16 corporations is one and nine-tenths percent (1.9%). The net proceeds
17 shall be credited to the General Fund.
- 18 (3) Additional Statewide Fire and Lightning Rate. – An additional tax
19 shall be applied to gross premiums on contracts of insurance
20 applicable to fire and lightning coverage, except in the case of marine
21 and automobile policies, at the rate of one and thirty-three hundredths
22 percent (1.33%). Twenty-five percent (25%) of the net proceeds of this
23 additional tax shall be deposited in the Volunteer Fire Department
24 Fund established in Article 87 of Chapter 58 of the General Statutes.
25 The remaining net proceeds shall be credited to the General Fund.
- 26 (4) Additional Local Fire and Lightning Rate. – An additional tax shall be
27 applied to gross premiums on contracts of insurance applicable to fire
28 and lightning coverage within fire districts at the rate of one-half of
29 one percent (1/2 of 1%). The net proceeds shall be credited to the
30 Department of Insurance for disbursement pursuant to G.S. 58-84-25.
- 31 ~~(5) (Effective January 1, 2004) Article 65 Corporations. – The tax rate to~~
32 ~~be applied to gross premiums and/or gross collections from~~
33 ~~membership dues, exclusive of receipts from cost plus plans, received~~
34 ~~by Article 65 corporations is one percent (1%). The net proceeds shall~~
35 ~~be credited to the General Fund.~~
- 36 (6) **(Effective January 1, 2004)** Health Maintenance Organizations. – The
37 tax rate to be applied to gross premiums on insurance contracts issued
38 by health maintenance organizations is one percent (1%). The net
39 proceeds shall be credited to the General Fund."

40 **SECTION 43.2.** G.S. 58-6-25(a) and (e) read as rewritten:

41 "(a) Charge Levied. – There is levied on each insurance company an annual
42 charge for the purposes stated in subsection (d) of this section. The charge levied in this
43 section is in addition to all other fees and taxes. The percentage rate of the charge is
44 established pursuant to subsection (b) of this section. For each insurance company that
45 is not ~~an Article 65 corporation nor~~ a health maintenance organization, the rate is
46 applied to the company's premium tax liability for the taxable year. For ~~Article 65~~
47 ~~corporations and~~ health maintenance organizations, the rate is applied to a premium tax
48 liability for the taxable year calculated as if the corporation or organization were paying
49 tax at the rate in G.S. 105-228.5(d)(2). In determining an insurance company's premium
50 tax liability for a taxable year, the following shall be disregarded:

- 51 (1) Additional taxes imposed by G.S. 105-228.8.
52 (2) The additional local fire and lightning tax imposed by G.S.
53 105-228.5(d)(4).
54 (3) Any tax credits for guaranty or solvency fund assessments under G.S.
55 105-228.5A or G.S. 97-133(a).

1 (4) Any tax credits allowed under Chapter 105 of the General Statutes
2 other than tax payments made by or on behalf of the taxpayer.
3

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

5 ~~(1) Article 65 corporation. – Defined in G.S. 105-228.3.~~

6 (2) Insurance company. – A company that pays the gross premiums tax
7 levied in G.S. 105-228.5 and G.S. 105-228.8.

8 (3) Insurer. – Defined in G.S. 105-228.3."

9 **SECTION 43.3.** Notwithstanding the provisions of G.S. 105-228.5(f), the
10 following provisions apply to Article 65 Corporations, as defined in G.S. 105-228.3, for
11 the 2004 and 2005 taxable years in lieu of the provisions of G.S. 105-228.5(f):

12 Article 65 corporations that are subject to the tax imposed by G.S. 105-228.5
13 and have an estimated premium tax liability for the 2004 or 2005 taxable year, not
14 including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or
15 more for business done in North Carolina shall remit two estimated tax payments with
16 each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax
17 liability for the relevant taxable year. The first estimated payment is due on or before
18 April 15 of the relevant year and the second estimated payment is due on or before June
19 15 of the relevant year. The taxpayer must remit the balance by the following March 15
20 in the same manner provided in G.S. 105-228.5(e) for annual returns.

21 An underpayment of an estimated payment required by this section bears
22 interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest
23 as provided in G.S. 105-266(b) and, together with the interest, must be credited to the
24 taxpayer and applied against the taxes imposed upon the company under G.S.
25 105-228.5.

26 The penalties provided in Article 9 of Chapter 105 of the General Statutes
27 apply to the estimated tax payments required by this section.

28 **SECTION 43.4.** This part is effective for taxable years beginning on or after
29 January 1, 2004. The Commissioner of Insurance must make a certification to the
30 Secretary of Revenue and to the Revisor of Statutes when there are no Article 65
31 corporations that offer medical service plans or hospital service plans. This part is
32 repealed effective for taxable years beginning on or after the January 1 immediately
33 following the certification required by this section.
34

35 **PART XLIV. CONTINUE USE TAX LINE ITEM ON INCOME TAX** 36 **FORM**

37
38 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

39 **SECTION 44.1.** Section 18 of S.L. 2000-120 reads as rewritten:

40 "**Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10
41 and 11 of this act become effective for taxable years beginning on or after January 1,
42 ~~2003-2005~~. The remainder of this act is effective when it becomes law."
43

44 **PART XLV. CONFORM TO STREAMLINED SALES AND USE TAX** 45 **AGREEMENT**

46
47 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

48 **SECTION 45.1.** The Streamlined Sales and Use Tax Agreement is a historic
49 multistate agreement designed to simplify and modernize sales and use tax collection
50 and administration. The states and businesses involved in the Streamlined Sales Tax
51 Project recognize that a simplified and uniform system saves businesses compliance and
52 audit costs, while also saving states administrative costs and improving voluntary
53 compliance, which should increase state collections. To participate in the Agreement,
54 North Carolina must amend or modify some of its sales and use tax law to conform to
55 the simplifications and uniformity in the Agreement. This part makes many of those

1 necessary changes. It is the intent of the General Assembly to make any additional
2 changes necessary to conform to the mandates of the Agreement, including changes to
3 provide for a uniform local tax base.

4 **SECTION 45.2.** G.S. 105-164.3 reads as rewritten:

5 **"§ 105-164.3. Definitions.**

6 The following definitions apply in this Article:

7
8 (4a) Computer. – An electronic device that accepts information in digital or
9 similar form and manipulates it for a result based on a sequence of
10 instructions.

11 (4b) Computer software. – A set of coded instructions designed to cause a
12 computer or automatic data processing equipment to perform a task.

13 (5c) Custom computer software. – Computer software that is not prewritten
14 computer software. The term includes a user manual or other
15 documentation that accompanies the sale of the software.

16 (5d) Delivered electronically. – Delivered to the purchaser by means other
17 than tangible storage media.

18
19 (7a) Direct mail. – Printed material delivered or distributed by the United
20 States Postal Service or other delivery service to a mass audience or to
21 addresses on a mailing list provided by the purchaser or at the
22 direction of the purchaser when the cost of the items is not billed
23 directly to the recipients. The term includes tangible personal property
24 supplied directly or indirectly by the purchaser to the direct mail seller
25 for inclusion in the package containing the printed material. The term
26 does not include multiple items of printed material delivered to a
27 single address.

28
29 (8a) Drug. – A compound, substance, or preparation or a component of one
30 of these that meets any of the following descriptions and is not food, a
31 dietary supplement, or an alcoholic beverage:

32 a. Is recognized in the United States Pharmacopoeia,
33 Homeopathic Pharmacopoeia of the United States, or National
34 Formulary.

35 b. Is intended for use in the diagnosis, cure, mitigation, treatment,
36 or prevention of disease.

37 c. Is intended to affect the structure or function of the body.

38 (8b) Durable medical equipment. – Equipment that meets all of the
39 conditions of this subdivision. The term includes repair and
40 replacement parts for the equipment. The term does not include
41 mobility enhancing equipment.

42 a. Can withstand repeated use.

43 b. Primarily and customarily used to serve a medical purpose.

44 c. Generally not useful to a person in the absence of an illness or
45 injury.

46 d. Not worn in or on the body.

47 (8c) Electronic. – Relating to technology having electrical, digital,
48 magnetic, wireless, optical, electromagnetic, or similar capabilities.

49
50 (17) Lease or rental. – A transfer, for consideration, of the use but not the
51 ownership of property to another for a period of time. A transfer of
52 possession or control of tangible personal property for a fixed or
53 indeterminate term for consideration. The term does not include any of
54 the following:

- 1 a. A transfer of possession or control of property under a security
2 agreement or deferred payment plan that requires the transfer of
3 title upon completion of the required payments.
- 4 b. A transfer of possession or control of property under an
5 agreement that requires the transfer of title upon completion of
6 required payments and payment of an option price that does not
7 exceed the greater of one hundred dollars (\$100.00) or one
8 percent (1%) of the total required payments.
- 9 c. The providing of tangible personal property along with an
10 operator for a fixed or indeterminate period of time if the
11 operator is necessary for the equipment to perform as designed.
12 For the purpose of this sub-subdivision, an operator must do
13 more than maintain, inspect, or set up the tangible personal
14 property.
- 15 (17a) Load and leave. – Delivery to the purchaser by use of a tangible
16 storage media where the tangible storage media is not physically
17 transferred to the purchaser.
- 18 ...
- 19 (21a) Mobility enhancing equipment. – Equipment that meets all of the
20 conditions of this subdivision. The term includes repair and
21 replacement parts for the equipment. The term does not include
22 durable medical equipment.
- 23 a. Primarily and customarily used to provide or increase the ability
24 of an individual to move from one place to another.
- 25 b. Appropriate for use either in a home or motor vehicle.
- 26 c. Not generally used by a person with normal mobility.
- 27 d. Not normally provided on a motor vehicle by a motor vehicle
28 manufacturer.
- 29 ...
- 30 (25a) Over-the-counter drug. – A drug that can be dispensed under federal
31 law without a prescription and is required by 21 C.F.R. § 210.66 to
32 have a label containing a "Drug Facts" panel and a statement of its
33 active ingredients.
- 34 ...
- 35 (28) Prepared food. – Food that meets at least one of the following
36 conditions:conditions of this subdivision. Prepared food does not
37 include food the retailer sliced, repackaged, or pasteurized but did not
38 otherwise process.
- 39 a. It is sold in a heated state or it is heated by the retailer.
- 40 b. It consists of two or more foods mixed or combined by the
41 retailer for sale as a single item. This sub-subdivision does not
42 include foods containing raw eggs, fish, meat, or poultry that
43 require cooking by the consumer as recommended by the Food
44 and Drug Administration to prevent food borne illnesses.
- 45 c. It is sold with eating utensils provided by the retailer, such as
46 plates, knives, forks, spoons, glasses, cups, napkins, and straws.
47 ~~The term does not include food the retailer sliced, repackaged, or~~
48 ~~pasteurized but did not otherwise process.~~
- 49 (29) ~~Prescription drug. – A drug that under federal law is required, prior to~~
50 ~~being dispensed or delivered, to be labeled with the following~~
51 ~~statement: "Caution: Federal law prohibits dispensing without~~
52 ~~prescription".~~ Prescription. – An order, formula, or recipe issued orally,
53 in writing, electronically, or by another means of transmission by a
54 physician, dentist, veterinarian, or another person licensed to prescribe
55 drugs.

1 (29a) Prewritten computer software. – Computer software, including
 2 prewritten upgrades, that is not designed and developed by the author
 3 or another creator to the specifications of a specific purchaser. The
 4 term includes software designed and developed by the author or
 5 another creator to the specifications of a specific purchaser when it is
 6 sold to a person other than the specific purchaser.

7 ...
 8 (30a) Prosthetic device. – A replacement, corrective, or supporting device
 9 worn on or in the body that meets one of the conditions of this
 10 subdivision. The term includes repair and replacement parts for the
 11 device.

12 a. Artificially replaces a missing portion of the body.

13 b. Prevents or corrects a physical deformity or malfunction.

14 c. Supports a weak or deformed portion of the body.

15 ...
 16 (46) Tangible personal property. – Personal property that may be seen,
 17 weighed, measured, felt, or touched or is in any other manner
 18 perceptible to the senses. ~~The term does not include stocks, bonds,~~
 19 ~~notes, insurance, or other obligations or securities, nor does it include~~
 20 ~~water delivered by or through main lines or pipes either for~~
 21 ~~commercial or domestic use or consumption. The term includes~~
 22 ~~computer software delivered on a storage medium, such as a cd rom, a~~
 23 ~~disk, or a tape.~~The term includes electricity, water, gas, steam, and
 24 prewritten computer software."

25 **SECTION 45.3.** G.S. 105-164.4B reads as rewritten:

26 "**§ 105-164.4B. ~~Sales are sourced based on destination.~~Sourcing principles.**

27 (a) General Principles. – The following principles apply in determining where to
 28 source the sale of a product. These principles apply regardless of the nature of the
 29 product.

30 (1) Over-the-counter. – When a purchaser receives a product at a business
 31 location of the seller, the sale is sourced to that business location.

32 (2) Delivery to specified address. – When a purchaser receives a product
 33 at a location specified by the purchaser and the location is not a
 34 business location of the seller, the sale is sourced to the location where
 35 the purchaser receives the product.

36 (3) Delivery address unknown. – When a seller of a product does not
 37 know the address where a product is received, the sale is sourced to the
 38 first address or location listed in this subdivision that is known to the
 39 seller:

40 a. The business or home address of the purchaser.

41 b. The billing address of the purchaser or, if the product is a
 42 prepaid telephone calling service that authorizes the purchase of
 43 mobile telecommunications service, the location associated with
 44 the mobile telephone number.

45 c. The billing address of the purchaser.

46 (b) Periodic Rental Payments. – When a lease or rental agreement requires
 47 recurring periodic payments, the payments are sourced as follows:

48 (1) For leased or rented property, the first payment is sourced in
 49 accordance with the principles set out in subsection (a) of this section
 50 and each subsequent payment is sourced to the primary location of the
 51 leased or rented property for the period covered by the payment. This
 52 subdivision applies to all property except a motor vehicle, an aircraft,
 53 and transportation equipment.

54 (2) For leased or rented property that is a motor vehicle or an aircraft but
 55 is not transportation equipment, all payments are sourced to the

1 primary location of the leased or rented property for the period covered
 2 by the payment.

- 3 (3) For leased or rented property that is transportation equipment, all
 4 payments are sourced in accordance with the principles set out in
 5 subsection (a) of this section.

6 (c) Transportation Equipment Defined. – As used in the section, the term
 7 "transportation equipment" means any of the following used to carry persons or
 8 property in interstate commerce: a locomotive, a railway car, a commercial motor
 9 vehicle as defined in G.S. 20-4.01, or an aircraft. The term includes a container
 10 designed for use on the equipment and a component part of the equipment.

11 (d) Exceptions. – This section does not apply to the following:

- 12 (1) ~~telecommunications~~ Telecommunications services. ~~_____~~ –
 13 Telecommunications services are sourced in accordance with G.S.
 14 105-164.4C.

- 15 (2) Direct mail. – Direct mail that meets one of the conditions of this
 16 subdivision is sourced to the location where the property is delivered.
 17 In all other cases, direct mail is sourced in accordance with the
 18 principles set out in subsection (a) of this section.

19 a. Direct mail purchased pursuant to a direct pay permit.

20 b. When the purchaser provides the seller with information to
 21 show the jurisdictions to which the direct mail is to be
 22 delivered."

23 **SECTION 45.4.** G.S. 105-164.6A(b) reads as rewritten:

24 "(b) Mandatory Provisions. – The agreements must contain the following
 25 provisions:

- 26 (1) The seller is not liable for use tax not paid to it by a customer.
 27 (2) A customer's payment of a use tax to the seller relieves the customer of
 28 liability for the use tax.
 29 (3) The seller must remit all use taxes it collects from customers on or
 30 before the due date specified in the agreement, which may not be later
 31 than 31 days after the end of a quarter or other collection period. The
 32 collection period cannot be more often than annually if the seller's
 33 State and local tax collections are less than one thousand dollars
 34 (\$1,000) in a calendar year.
 35 (4) A seller who fails to remit use taxes collected on behalf of its
 36 customers by the due date specified in the agreement is subject to the
 37 interest and penalties provided in Article 9 of this Chapter with respect
 38 to the taxes to the same extent as if the seller were a retailer and were
 39 required to collect use taxes under this Article."

40 **SECTION 45.5.** G.S. 105-164.13 reads as rewritten:

41 **"§ 105-164.13. Retail sales and use tax.**

42 The sale at retail, the use, storage or consumption in this State of the following
 43 tangible personal property is specifically exempted from the tax imposed by this Article:

44
 45 (12) Sales of any of the following items:

46 a. ~~Therapeutic, prosthetic, or artificial devices, such as pulmonary~~
 47 ~~respirators or medical beds, that are designed for individual~~
 48 ~~personal use to correct or alleviate physical illness, disease, or~~
 49 ~~incapacity and that are sold on the written prescription of a~~
 50 ~~physician, dentist, or other professional person licensed to~~
 51 ~~prescribe.~~

52 b. ~~Crutches, artificial limbs, artificial eyes, hearing aids, false~~
 53 ~~teeth, eyeglasses ground on prescription of a physician or an~~
 54 ~~optometrist.~~

- 1 e. ~~Orthopedic appliances designed to be worn by the purchaser or~~
 2 ~~user.~~
 3 d. ~~Durable medical equipment and related medical supplies that~~
 4 ~~are covered under the Medicare or Medicaid program and are~~
 5 ~~sold on either a certificate of medical necessity or a written~~
 6 ~~prescription of a physician, dentist, or other professional person~~
 7 ~~licensed to prescribe. This exemption applies whether or not the~~
 8 ~~item is purchased by a Medicare or Medicaid beneficiary.~~
 9 a. Prosthetic devices.
 10 b. Mobility enhancing equipment sold on a prescription.
 11 c. Durable medical equipment sold on prescription.
 12 (13) ~~All of the following drugs, including the constituent elements and~~
 13 ~~ingredients used to produce the drugs, the their packaging materials,~~
 14 ~~materials and any instructions or information about the product drugs~~
 15 ~~included in the package with the drugs; them:~~
 16 a. Prescription drugs. Drugs required by federal law to be
 17 dispensed only on prescription.
 18 b. Nonprescription drugs sold on prescription of physicians,
 19 dentists, or veterinarians. Over-the-counter drugs sold on
 20 prescription.
 21 c. Insulin.
 22
 23 ~~...~~
 24 (43) ~~Custom computer software. —"Custom computer software" is software~~
 25 ~~written in accordance with the specifications of a specific customer.~~
 26 ~~The term includes a user manual or other documentation that~~
 27 ~~accompanies the sale of the software. The term does not include~~
 28 ~~prewritten software that can be installed and executed with no changes~~
 29 ~~to the software's source code other than changes made to configure~~
 30 ~~hardware or software. Custom computer software and the portion of~~
 31 ~~prewritten computer software that is modified or enhanced if the~~
 32 ~~modification or enhancement is designed and developed to the~~
 33 ~~specifications of a specific purchaser and the charges for the~~
 34 ~~modification or enhancement are separately stated.~~
 35 (43a) Computer software delivered electronically or delivered by load and
 36 leave.
 37 ~~...~~
 38 (50) ~~Fifty percent (50%) of the sales price of tangible personal property~~
 39 ~~sold through a coin-operated vending machine, other than~~
 40 ~~closed container soft drinks and tobacco.~~
 41 (51) Water delivered by or through main lines or pipes for either
 42 commercial or domestic use or consumption."

SECTION 45.6. G.S. 105-164.13B reads as rewritten:

43 **"§ 105-164.13B. Food exempt from tax.**

44 ~~Food~~ Except as provided in this section, food is exempt from the taxes imposed by
 45 ~~this Article, except as follows:~~ Article. The taxes apply to the following:

- 46 (1) The following items are subject to tax:
 47 a. ~~Alcoholic beverages, as defined in 105-113.68.~~
 48 b. ~~Dietary supplements.~~
 49 c. ~~Food sold through a vending machine.~~
 50 (2) The following items are subject to tax, unless the items are purchased
 51 for home consumption and would be exempt if purchased under the
 52 Federal Food Stamp Program, 7 U.S.C. § 51:
 53 a. ~~Candy.~~
 54 b. ~~Prepared food.~~
 55 c. ~~Soft drinks.~~

1 (1) Alcoholic beverages, as defined in G.S. 105-113.68.

2 (2) Candy.

3 (3) Dietary supplements.

4 (4) Food sold through a vending machine.

5 (5) Prepared food.

6 (6) Soft drinks."

7 **SECTION 45.7.** G.S. 105-164.13C(c) is repealed.

8 **SECTION 45.8.** G.S. 105-164.16(b1) reads as rewritten:

9 "(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred
10 dollars (\$100.00) but less than ten thousand dollars (\$10,000) a month in State and local
11 sales and use taxes must file a return and pay the taxes due on a monthly basis. A
12 monthly return is due by the ~~15th~~ 20th day of the month following the calendar month
13 covered by the return."

14 **SECTION 45.9.** G.S. 105-164.27A(a) reads as rewritten:

15 "(a) Tangible Personal Property. – A direct pay permit for tangible personal
16 property authorizes its holder to purchase any tangible personal property without paying
17 tax to the seller and authorizes the seller to not collect any tax on a sale to the permit
18 holder. A person who purchases tangible personal property under a direct pay permit
19 issued under this subsection is liable for use tax due on the purchase. The tax is payable
20 when the property is placed in use. A direct pay permit issued under this subsection
21 does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

22 A person who purchases direct mail may apply to the Secretary for a direct pay
23 permit for the purchase of direct mail. The direct pay permit issued for direct mail does
24 not apply to any purchase other than the purchase of direct mail.

25 A person who purchases tangible personal property whose tax status cannot be
26 determined at the time of the purchase because of one of the reasons listed below may
27 apply to the Secretary for a direct pay permit for tangible personal property:

28 (1) The place of business where the property will be used is not known at
29 the time of the purchase and a different tax consequence applies
30 depending on where the property is used.

31 (2) The manner in which the property will be used is not known at the
32 time of the purchase and one or more of the potential uses is taxable
33 but others are not taxable."

34 **SECTION 45.10.** G.S. 105-466(c) reads as rewritten:

35 "(c) Collection of the tax, and liability therefor, must begin and continue only on
36 and after the first day of the month of either January or July, as set by the board of
37 county commissioners in the resolution levying the tax. In no event may the tax be
38 imposed, or the tax rate changed, earlier than the first day of the second succeeding
39 calendar month after the date of the adoption of the resolution. The county must give the
40 Secretary at least 90 days advance notice of a new tax levy or tax rate change. The
41 applicability of a new tax or a tax rate change to purchases from printed catalogs
42 becomes effective on the first day of a calendar quarter after a minimum of 120 days
43 from the date the Secretary notifies the seller that receives orders by means of a catalog
44 or similar publication of the new tax or tax rate change."

45 **SECTION 45.11.** Sections 45.2 through 45.10 of this act become effective
46 July 1, 2003. The remainder of this part is effective when it becomes law.

47 **PART XLVI. SECURITY INTEREST DEBT**

48 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

49 **SECTION 46.1.** Repair and Renovation. – This section authorizes the
50 issuance or incurrence of special indebtedness in a maximum aggregate principal
51 amount of two hundred fifty million dollars (\$250,000,000) to be used only in
52 accordance with this section for the repair and renovation of State facilities and related
53 infrastructure that are supported from the General Fund.
54
55

1 Proceeds of the Repair and Renovation special indebtedness shall be used
2 only for the purposes and in accordance with the procedures provided in G.S.
3 143-15.3A, the Repairs and Renovations Reserve Account.

4 Except in the case of an emergency as provided in G.S. 143-15.3A, the
5 Director of the Budget shall use the Repair and Renovations funds only for repairs and
6 renovations that have been approved by an act of the General Assembly or, if the
7 General Assembly is not in session, for repairs and renovations about which the
8 Director of the Budget has first consulted with the Joint Legislative Commission on
9 Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall
10 direct the State Treasurer to carry out the financing for repair and renovation projects
11 selected pursuant to this section. Special indebtedness authorized by this section shall be
12 issued or incurred only in accordance with Article 9 of Chapter 142 of the General
13 Statutes, as enacted by this part.

14 **SECTION 46.2.** Chapter 142 of the General Statutes is amended by adding a
15 new Article to read:

16 "Article 9.

17 "State Capital Facilities Finance Act.

18 **"§ 142-80. Short title.**

19 This Article may be cited as the State Capital Facilities Finance Act.

20 **"§ 142-81. Findings and purpose.**

21 The General Assembly finds as follows:

- 22 (1) There is a continuing need for capital facilities for the State, many of
23 which will continue to be provided on a "pay-as-you-go" basis by
24 direct appropriations.
25 (2) The State will also continue to provide capital facilities through the
26 issuance of general obligation bonds.
27 (3) There is a need, however, for the use of alternative financing methods,
28 such as authorized in this Article, to facilitate the providing of capital
29 facilities when circumstances and conditions warrant the providing of
30 capital facilities through financing methods in addition to direct
31 appropriations and the issuance of general obligation bonds.
32 (4) The use of these alternative financing methods as authorized in this
33 Article will provide financing flexibility to the State and permit the
34 State to take advantage of changing financial and economic
35 environments.

36 **"§ 142-82. Definitions.**

37 The following definitions apply in this Article:

- 38 (1) Bonded indebtedness. – Limited obligation bonds and bond
39 anticipation notes, including refunding bonds and notes, authorized to
40 be issued under this Article.
41 (2) Bonds or notes. – Limited obligation bonds and notes authorized to be
42 issued under this Article.
43 (3) Capital facility. – Any one or more of the following:
44 a. Any one or more buildings, utilities, structures, or other
45 facilities or property developments, including streets and
46 landscaping, and the acquisition of equipment, machinery, and
47 furnishings in connection with these items.
48 b. Additions, extensions, enlargements, renovations, and
49 improvements to existing buildings, utilities, structures, or other
50 facilities or property developments, including streets and
51 landscaping.
52 c. Land or an interest in land.
53 d. Other infrastructure.
54 e. Furniture, fixtures, equipment, vehicles, machinery, and similar
55 items.

- 1 (4) Certificates of participation. – Certificates or other instruments
2 delivered by a special corporation evidencing the assignment of
3 proportionate undivided interests in rights to receive payments
4 pursuant to a financing contract.
- 5 (5) Certificates of participation indebtedness. – Financing contract
6 indebtedness incurred by the State under a plan of finance in which a
7 special corporation obtains funds to pay the cost of a capital facility to
8 be financed through the delivery by the special corporation of
9 certificates of participation.
- 10 (6) Cost. – Any of the following in financing the cost of capital facilities
11 as authorized by this Article:
- 12 a. The cost of constructing, reconstructing, renovating, repairing,
13 enlarging, acquiring, and improving capital facilities, including
14 the acquisition of land, rights-of-way, easements, franchises,
15 equipment, machinery, furnishings, and other interests in real or
16 personal property acquired or used in connection with a capital
17 facility.
- 18 b. The cost of engineering, architectural, and other consulting
19 services.
- 20 c. The cost of providing personnel to ensure effective
21 management of capital facilities.
- 22 d. Finance charges, reserves for debt service, and other types of
23 reserves required pursuant to the terms of any special
24 indebtedness or related documents, interest before and during
25 construction or acquisition of a capital facility and, if
26 considered advisable by the State Treasurer, for a period not
27 exceeding two years after the estimated date of completion of
28 construction or acquisition.
- 29 e. Administrative expenses and charges.
- 30 f. The cost of bond insurance, investment contracts, credit
31 enhancement facilities and liquidity facilities, interest rate swap
32 agreements or other derivative products, financial and legal
33 consultants, and related costs of the incurrence or issuance of
34 special indebtedness.
- 35 g. The cost of reimbursing the State, a State agency, or a special
36 corporation for any payments made for any cost described in
37 this subdivision.
- 38 h. Any other costs and expenses necessary or incidental to the
39 purposes of this Article.
- 40 (7) Credit facility. – An agreement that:
- 41 a. Is entered into by the State with a bank, savings and loan
42 association, or other banking institution, an insurance company,
43 reinsurance company, surety company, or other insurance
44 institution, a corporation, investment banking firm, or other
45 investment institution, or any financial institution or other
46 similar provider of a credit facility, which provider may be
47 located within or without the United States of America; and
- 48 b. Provides for prompt payment of all or any part of the principal
49 or purchase price (whether at maturity, presentment or tender
50 for purchase, redemption, or acceleration), redemption
51 premium, if any, and interest with respect to any special
52 indebtedness payable on demand or tender by the owner in
53 consideration of the State's agreeing to repay the provider of the
54 credit facility in accordance with the terms and provisions of
55 the agreement.

- 1 (8) Department of Administration. – The North Carolina Department of
2 Administration, created by Article 36 of Chapter 143 of the General
3 Statutes, or if the Department is abolished or otherwise divested of its
4 functions under this Article, the public body succeeding it in its
5 principal functions or upon which are conferred by law the rights,
6 powers, and duties given by this Article to the Department.
- 7 (9) Financing contract. – A contract entered into pursuant to this Article to
8 finance capital facilities and constituting a lease-purchase contract,
9 installment-purchase contract, or other similar type installment
10 financing contract. The term does not include, however, a contract that
11 meets any one of the following conditions:
- 12 a. It constitutes an operating lease under generally accepted
13 accounting principles.
- 14 b. It provides for the payment under the contract over its full term,
15 including periods that may be added to the original term
16 through the exercise of options to renew or extend, of an
17 aggregate principal amount of not in excess of five thousand
18 dollars (\$5,000) or any greater amount that may be established
19 by the Council of State if the Council of State determines (i) the
20 aggregate amount to be paid under these contracts will not have
21 a significant impact on the State budgetary process or the
22 economy of the State and (ii) the change will lessen the
23 administrative burden on the State.
- 24 c. It is executed and provides for the making of all payments
25 under the contract, including payment to be made during any
26 period that may be added to the original term through the
27 exercise of options to renew or extend, in the same fiscal year.
- 28 (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a
29 financing contract, including certificates of participation indebtedness.
- 30 (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal
31 biennium.
- 32 (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one
33 calendar year and ending on June 30 of the next calendar year.
- 34 (13) Limited obligation bond. – A limited obligation bond issued pursuant
35 to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
- 36 (14) Par formula. – A provision or formula adopted by the State to provide
37 for the adjustment, from time to time, of the interest rate or rates borne
38 or provided for by any special indebtedness, including any of the
39 following:
- 40 a. A provision providing for an adjustment so that the purchase
41 price of special indebtedness in the open market would be as
42 close to par as possible.
- 43 b. A provision providing for an adjustment based upon a
44 percentage or percentages of a prime rate or base rate, which
45 percentages may vary or be applied for different periods of
46 time.
- 47 c. Any provision that the State Treasurer determines is consistent
48 with this Article and will not materially and adversely affect the
49 financial position of the State and the marketing of special
50 indebtedness at a reasonable interest cost to the State.
- 51 (15) Person. – An individual, a firm, a partnership, an association, a
52 corporation, a limited liability company, or any other organization or
53 group acting as a unit.
- 54 (16) Special corporation. – Either of the following:

1 a. A nonprofit corporation created under Chapter 55A of the
2 General Statutes for the purpose of facilitating the incurrence of
3 certificates of participation indebtedness by the State under this
4 Article.

5 b. A private corporation or other entity issuing certificates of
6 participation pursuant to this Article.

7 (17) Special indebtedness. – Financing contract indebtedness and bonded
8 indebtedness issued or incurred pursuant to this Article.

9 (18) State. – The State of North Carolina, including any State agency.

10 (19) State agency. – Any agency, institution, board, commission, bureau,
11 council, department, division, officer, or employee of the State. The
12 term does not include counties, municipal corporations, political
13 subdivisions, local boards of education, or other local public bodies.

14 (20) State Treasurer. – The incumbent Treasurer, from time to time, of the
15 State.

16 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

17 The State may incur or issue special indebtedness subject to the terms and conditions
18 provided in this Article for the purpose of financing the cost of capital facilities that
19 meet one of the following conditions:

20 (1) The General Assembly has enacted legislation describing the capital
21 facility and authorizing its financing by the incurrence or issuance of
22 special indebtedness up to a specific maximum amount.

23 (2) The General Assembly has enacted legislation authorizing the
24 incurrence or issuance of special indebtedness up to a specific
25 maximum amount for a specific category of capital facilities, and the
26 capital facility meets all of the conditions set in that legislation.

27 **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

28 (a) Notice and Certificate. – Whenever the State or a State agency determines
29 that special indebtedness is appropriate to finance capital facilities, it shall notify the
30 Department of Administration. If the Department of Administration concurs, it shall
31 provide written notice to the State Treasurer advising the State Treasurer of this
32 determination.

33 After the filing of the notice and after any preliminary conference, the State
34 Treasurer shall consult with the Office of State Budget and Management as to the
35 revenues expected by that Office to be available to pay all sums to come due on the
36 special indebtedness during its term. If, after consulting with the Office of State Budget
37 and Management, the State Treasurer determines by written certificate that it may be
38 desirable to use special indebtedness to finance the capital facilities, the Department of
39 Administration shall request the Council of State to give its preliminary approval of the
40 use of special indebtedness to finance the capital facilities. The Department of
41 Administration must promptly file copies of the notice and certificate required by this
42 subsection with the Governor and the Council of State.

43 (b) Preliminary Approval. – The Council of State, upon receipt of the notice and
44 certificate required by subsection (a) of this section, shall adopt a resolution granting or
45 denying preliminary approval of the financing. A resolution granting preliminary
46 approval may include any other terms, conditions, and restrictions the Council of State
47 considers appropriate and not inconsistent with the provisions of this Article.

48 (c) Final Approval. – Before any special indebtedness may be incurred or issued
49 pursuant to this Article, the Council of State must authorize the indebtedness by
50 resolution, either as part of or separate from the resolution required by subsection (b) of
51 this section. The resolution must do all of the following:

52 (1) Authorize the providing of a particular capital facility or, in general
53 terms, the types or classifications of capital facilities to be provided.

54 (2) Set the aggregate principal amount or maximum principal amount of
55 the special indebtedness authorized.

- 1 (3) Set the maturity or maximum maturity of the special indebtedness
2 authorized.
3 (4) Set the rate, rates, or maximum rate of interest, which may be fixed or
4 vary over a period of time, of the special indebtedness authorized.
5 (5) Include any other conditions or matters not inconsistent with the
6 provisions of this Article in the discretion of the Council of State,
7 which may include the adoption or approvals as may be authorized in
8 G.S. 142-88 and G.S. 142-89.

9 (d) Financing Terms. – No special indebtedness shall be incurred or issued
10 without the prior written approval of the State Treasurer as provided in this subsection,
11 which is in addition to the certificate given by the State Treasurer pursuant to subsection
12 (a) of this section. In determining whether to approve the proposed financing, the State
13 Treasurer may consider any factors the State Treasurer considers relevant in order to
14 find and determine all of the following:

- 15 (1) The amounts to become due under the special indebtedness, including
16 the interest component or rate, are adequate and not excessive for the
17 purpose proposed.
18 (2) The increase, if any, in State revenues, including taxes, necessary to
19 pay the sums to become due under the special indebtedness, is not
20 excessive.
21 (3) The special indebtedness can be incurred or issued on terms desirable
22 to the State.

23 (e) Designation of Facilities. – If the Council of State authorized in general terms
24 the types or classifications of capital facilities to be financed, then the particular capital
25 facilities and the principal amount of special indebtedness to be incurred or issued for
26 each particular capital facility shall be determined by the Department of Administration
27 after considering any factors it considers relevant in order to determine that the
28 particular capital facility to be provided is desirable for the efficient operation of the
29 State and its agencies and is in the best interests of the State.

30 (f) Type of Debt and Security. – In the absence of a determination by the
31 Council of State, the State Treasurer, after consultation with the Department of
32 Administration, shall determine the specific security offered and whether the special
33 indebtedness to be issued or incurred shall be financing contract indebtedness,
34 certificates of participation indebtedness, bonded indebtedness, or some combination of
35 these.

36 (g) Administration. – The State Treasurer, after consultation with the Department
37 of Administration, shall develop appropriate documents for use under this Article. The
38 State Treasurer shall employ and designate the financial consultants, fiduciaries and
39 other agents, underwriters, and bond attorneys to be associated with the incurrence or
40 issuance of special indebtedness pursuant to this Article.

41 (h) Oversight by Joint Legislative Commission. – After all the requirements for
42 approval and oversight provided in this section have been met, and at least five days
43 before the issuance or incurrence of the special indebtedness, the State Treasurer must
44 report to the Joint Legislative Commission on Governmental Operations. This report
45 must include the details of the proposed special indebtedness, including the capital
46 facilities to be financed by the indebtedness, the amount of the proposed indebtedness,
47 the type of indebtedness to be issued or incurred, and any other information required by
48 the Commission.

49 **"§ 142-85. Security; other requirements.**

50 (a) Security. – In order to secure (i) lease or installment payments to be made to
51 the lessor, seller, or other person advancing moneys or providing financing under a
52 financing contract, (ii) payment of the principal of and interest on bonded indebtedness,
53 or (iii) payment obligations of the State to the provider of bond insurance, a credit
54 facility, a liquidity facility, or a derivative agreement, special indebtedness may create
55 any combination of the following:

1 (1) A lien on or security interest in one or more, all, or any part of the
2 capital facilities to be financed by the special indebtedness.

3 (2) If the special indebtedness is to finance construction of improvements
4 on real property, a lien on or security interest in all or any part of the
5 land on which the improvements are to be located.

6 (3) If the special indebtedness is to finance renovations or improvements
7 to existing facilities or the installation of fixtures in existing facilities,
8 a lien on or security interest in one or more, all, or any part of the
9 facilities.

10 (b) Value of Security; Multiple Liens. – The estimated value of the property
11 subject to the lien or security interest need not bear any particular relationship to the
12 principal amount of the special indebtedness or other obligation it secures. This Article
13 does not limit the right of the State to grant multiple liens or security interests in a
14 capital facility or other property to the extent not otherwise limited by the terms of any
15 special indebtedness.

16 (c) Governor's Budget. – Documentation relating to any special indebtedness
17 may include provisions requesting the Governor to submit in the Governor's budget
18 proposal or any amendments or supplements to the budget proposed appropriations
19 necessary to make the payments required by the special indebtedness.

20 (d) Source of Repayment. – The payment of amounts payable by the State under
21 special indebtedness or any related documents during any fiscal period shall be limited
22 to funds appropriated for that purpose by the General Assembly in its discretion.

23 (e) No Deficiency Judgment or Pledge. – No deficiency judgment may be
24 rendered against the State in any action for breach of any obligation under special
25 indebtedness or any related documents. The taxing power of the State is not and may
26 not be pledged directly or indirectly to secure any moneys due under special
27 indebtedness or any related documents. In the event that the General Assembly does not
28 appropriate sums sufficient to make payments required under any special indebtedness
29 or any related documents, the net proceeds received from the sale or other disposition of
30 the property subject to the lien or security interest shall be applied to satisfy these
31 payment obligations in accordance with the deed of trust, security agreement, or other
32 documentation relating to the lien or security interest. These net proceeds are
33 appropriated for the purpose of making these payments. Any net proceeds in excess of
34 the amount required to satisfy the obligations of the State under any special
35 indebtedness or any related documents shall be paid to the State Treasurer for deposit to
36 the General Fund.

37 (f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness,
38 or other related document shall not contain a nonsubstitution clause that restricts the
39 right of the State to (i) continue to provide a service or conduct an activity or (ii) replace
40 or provide a substitute for any capital facility.

41 (g) Protection of Lender. – Special indebtedness may contain any provisions for
42 protecting and enforcing the rights and remedies of the person advancing moneys or
43 providing financing under a financing contract, the owners of bonded indebtedness, or
44 others to whom the State is obligated under special indebtedness or any related
45 documents as may be reasonable and proper and not in violation of law. These
46 provisions may include covenants setting forth the duties of the State in respect of any
47 of the following:

48 (1) The purposes to which the proceeds of special indebtedness may be
49 applied.

50 (2) The disposition and application of the revenues of the State, including
51 taxes.

52 (3) Insuring, maintaining, and other duties with respect to the capital
53 facilities financed.

54 (4) The disposition of any charges and collection of any revenues and
55 administrative charges.

1 (5) The terms and conditions of the issuance of additional special
2 indebtedness.

3 (6) The custody, safeguarding, investment, and application of all moneys.

4 (h) State Property Law Exception. – Chapter 146 of the General Statutes does not
5 apply to any transfer of the State's interest in property authorized by this Article,
6 whether to a deed of trust trustee or other secured party as security for special
7 indebtedness, or to a purchaser of property in connection with a foreclosure or similar
8 conveyance of property to realize upon the security for special indebtedness following
9 the State's default on its obligations under the special indebtedness.

10 **"§ 142-86. Financing contract indebtedness.**

11 (a) Documentation. – Financing contract indebtedness shall not be incurred until
12 all documentation providing for its incurrence has been approved by the State Treasurer,
13 after the State Treasurer has consulted with the Department of Administration.

14 (b) Interest Component. – A financing contract may provide for payments under
15 the contract to represent principal and interest components of the cost of the capital
16 facility to be financed, as determined by the State Treasurer.

17 (c) Bidding. – Financing contracts may be entered into pursuant to any applicable
18 public or competitive bidding process or any private or negotiated process, to the extent
19 required by applicable law, and if not so required, as may be determined by the
20 Department of Administration after consulting with the State Treasurer.

21 (d) Party. – All financing contracts shall be executed on behalf of the State by the
22 State Treasurer or, upon delegation by the State Treasurer after having approved the
23 financing contract, by the Department of Administration.

24 (e) Credit Facility. – If the State Treasurer determines that it is in the best interest
25 of the State, the State Treasurer may arrange for the delivery of a credit facility to
26 secure payment under any financing contract. The State Treasurer may also provide that
27 payments by the State representing the interest component of the payments to be made
28 under a financing contract may be calculated based upon a fixed or a variable rate of
29 interest.

30 (f) Terms and Conditions. – All other conditions set forth elsewhere in this
31 Article with respect to financing contract indebtedness shall also be satisfied prior to
32 incurring any financing contract indebtedness. To the extent applicable as conclusively
33 determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91
34 apply to financing contract indebtedness.

35 **"§ 142-87. Additional requirements for certificates of participation indebtedness.**

36 (a) Documentation. – A financing contract shall not be used in connection with
37 the delivery of certificates of participation by a special corporation until all
38 documentation providing for its use has been approved by the State Treasurer, after the
39 State Treasurer has consulted with the Department of Administration. All
40 documentation providing for the delivery and sale of certificates of participation must
41 be approved by the State Treasurer.

42 (b) Procedure. – The special corporation, if used, shall request the approval of the
43 State Treasurer in writing and shall furnish any information and documentation relating
44 to the delivery and sale of the certificates of participation requested by the State
45 Treasurer. In determining whether to approve the financing in the documentation, the
46 State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the
47 effect of the proposed financing upon any scheduled or proposed sale of debt
48 obligations by the State or a unit of local government in the State.

49 (c) Terms; Interest. – Certificates of participation may be sold by the State
50 Treasurer in the manner, either at public or private sale, and for any price or prices that
51 the State Treasurer determines to be in the best interest of the State and to effect the
52 purposes of this Article, except that the terms of the sale must also be approved by the
53 special corporation. Interest payable with respect to certificates of participation shall
54 accrue at the rate or rates determined by the State Treasurer with the approval of the
55 special corporation.

1 (d) Trust Agreement. – Certificates of participation may be delivered pursuant to
2 a trust agreement or similar instrument with a corporate trustee approved by the State
3 Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar
4 instrument to the extent applicable.

5 (e) Other Conditions. – All other conditions set forth elsewhere in this Article
6 with respect to certificates of participation indebtedness, including the conditions set
7 forth in G.S. 142-86, must be satisfied before any certificates of participation
8 indebtedness is incurred.

9 **"§ 142-88. Bonded indebtedness.**

10 The State Treasurer is authorized, by and with the consent of the Council of State as
11 provided in this Article, to issue and sell at one time or from time to time bonds of the
12 State to be designated "State of North Carolina Limited Obligation Bonds, Series _____"
13 or notes of the State as provided in this Article, for the purpose of providing funds, with
14 any other available funds, for the uses authorized in this Article.

15 **"§ 142-89. Issuance of limited obligation bonds and notes.**

16 (a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or
17 term bonds or notes, or any combination of these, may mature in any amounts and at
18 any times, not exceeding 40 years from their dates, may be payable at any places, either
19 within or without the United States, in any coin or currency of the United States that at
20 the time of payment is legal tender for payment of public and private debts, may bear
21 interest at any rates, which may vary from time to time, and may be made redeemable
22 before maturity, at the option of the State or otherwise as may be provided by the State,
23 at any prices, including a price greater than the face amount of the bonds or notes, and
24 under any terms and conditions, all as may be determined by the State Treasurer, by and
25 with the consent of the Council of State.

26 (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be
27 issued in certificated or uncertificated form. If issued in certificated form, bonds or
28 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's
29 facsimile signature, shall be signed by the State Treasurer or shall bear the State
30 Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of
31 the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures
32 of the Governor and the State Treasurer, the bonds or notes shall also bear a manual
33 signature which may be that of a bond registrar, trustee, paying agent, or designated
34 assistant of the State Treasurer. If any officer whose signature or facsimile signature
35 appears on bonds or notes issued under this Article ceases to be that officer before the
36 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless
37 have the same validity for all purposes as if the officer had remained in office until
38 delivery of the bonds or notes. Bonds or notes issued under this Article may bear the
39 facsimile signatures of persons, who at the actual time of the execution of the bonds or
40 notes, were the proper officers to sign any bond or note although at the date of the bond
41 or note those persons may not have been officers.

42 The form and denomination of bonds or notes, including the provisions with respect
43 to registration of the bonds or notes and any system for their registration, shall be as
44 prescribed by the State Treasurer in conformity with this Article.

45 (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State
46 as to the manner in which bonds or notes will be offered for sale, whether at public or
47 private sale, whether within or without the United States, and whether by publishing
48 notices in certain newspapers and financial journals, mailing notices, inviting bids by
49 correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is
50 authorized to sell bonds or notes at one time or from time to time at any rates of interest,
51 which may vary from time to time, and at any prices, including a price less than the face
52 amount of the bonds or notes, as the State Treasurer may determine. All expenses
53 incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the
54 State Treasurer from the proceeds of bonds or notes or other available moneys.

1 (d) Application of Proceeds. – The proceeds of any bonds or notes shall be used
2 solely for the purposes for which the bonds or notes were issued and shall be disbursed
3 in the manner and under the restrictions, if any, that the Council of State may provide in
4 the resolution authorizing the issuance of, or in any trust agreement securing, the bonds
5 or notes.

6 Any additional moneys that may be received by means of a grant or grants from the
7 United States or any agency or department thereof or from any other source to aid in
8 financing the cost of a capital facility may be disbursed, to the extent permitted by the
9 terms of the grant or grants, without regard to any limitations imposed by this Article.

10 (e) Notes; Repayment. – By and with the consent of the Council of State, the
11 State Treasurer is authorized to borrow money and to execute and issue notes of the
12 State for the same, but only in any of the following circumstances and under the
13 following conditions:

14 (1) For anticipating the sale of bonds, the issuance of which the Council of
15 State has approved, if the State Treasurer considers it advisable to
16 postpone the issuance of the bonds.

17 (2) For the payment of interest on or any installment of principal of any
18 bonds then outstanding, if there are not sufficient funds in the State
19 treasury with which to pay the interest or installment of principal as
20 they respectively become due.

21 (3) For the renewal of any loan evidenced by notes authorized in this
22 Article.

23 (4) For the purposes authorized in this Article.

24 (5) For refunding bonds or notes or financing contract indebtedness as
25 authorized in this Article.

26 Funds derived from the sale of limited obligation bonds or notes may be used in the
27 payment of any bond anticipation notes issued under this Article. Funds provided by the
28 General Assembly for the payment of interest on or principal of bonds shall be used in
29 paying the interest on or principal of any notes and any renewals thereof, the proceeds
30 of which have been used in paying interest on or principal of the bonds.

31 (f) Refunding Bonds and Notes. – By and with the consent of the Council of
32 State, the State Treasurer is authorized to issue and sell refunding bonds and notes for
33 the purpose of refunding special indebtedness and to pay the cost of issuance of the
34 refunding bonds or notes. The refunding bonds and notes may be combined with any
35 other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or
36 notes may be issued at any time prior to the final maturity of the debt or obligation to be
37 refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to
38 the immediate payment and retirement of the obligations being refunded or, if not
39 required for the immediate payment of the obligations being refunded, the proceeds
40 shall be deposited in trust to provide for the payment and retirement of the obligations
41 being refunded and to pay any expenses incurred in connection with the refunding.
42 Money in a trust fund may be invested in (i) direct obligations of the United States
43 government, (ii) obligations the principal of and interest on which are guaranteed by the
44 United States government, (iii) to the extent then permitted by law, obligations of any
45 agency or instrumentality of the United States government, or (iv) certificates of deposit
46 issued by a bank or trust company located in the State if the certificates are secured by a
47 pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate
48 market value, exclusive of accrued interest, equal at least to the principal amount of the
49 certificates so secured. This section does not limit the duration of any deposit in trust for
50 the retirement of obligations being refunded but that have not matured and are not
51 presently redeemable, or if presently redeemable, have not been called for redemption.

52 (g) Security. – Payment of the principal of and the interest on bonds and notes
53 shall be secured as provided in G.S. 142-85.

54 (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and
55 notes issued under this Article may be secured by a trust agreement or similar

1 instrument between the State and a corporate trustee or by a resolution of the Council of
2 State providing for the appointment of a corporate trustee. The corporate trustee may be,
3 in either case, any trust company or bank that has the powers of a trust company within
4 or without the State. The trust agreement or similar instrument or resolution, hereinafter
5 referred to as "the trust", may provide for security and pledges and assignments that are
6 permitted under this Article and may provide for the granting of a lien or security
7 interest as authorized by G.S. 142-85. The trust may contain any provisions for
8 protecting and enforcing the rights and remedies of the owners of any bonds or notes
9 issued under the trust that are reasonable and not in violation of law, including
10 covenants setting forth the duties of the State with respect to the purposes for which
11 bond or note proceeds may be applied, the disposition and application of the revenues or
12 assets of the State, the duties of the State with respect to the capital facilities financed,
13 the disposition of any charges and collection of any revenues and administrative
14 charges, the terms and conditions of the issuance of additional bonds and notes, and the
15 custody, safeguarding, investment, and application of all moneys. All bonds and notes
16 issued under this Article pursuant to the same trust shall be equally and ratably secured
17 as provided in the trust, without priority by reasons of number, dates of bonds or notes,
18 execution, or delivery, in accordance with the provisions of this Article and of the trust.
19 The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to
20 the extent and in the manner prescribed in the trust, be subordinated and junior in
21 standing, with respect to the payment of principal and interest and to the security of the
22 payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any
23 bank or trust company that may act as depository of the proceeds of bonds or notes,
24 revenues, or any other money under this Article to furnish any indemnifying bonds or to
25 pledge any securities that may be required by the State Treasurer. The trust may set out
26 the rights and remedies of the owners of any bonds or notes and of any trustee, and may
27 restrict the individual rights of action by the owners. In addition to the foregoing, the
28 trust may contain any other provisions the State Treasurer considers appropriate for the
29 security of the owners of any bonds or notes. Expenses incurred in carrying out the
30 provisions of the trust may be treated as a part of the cost of any capital facility or as an
31 administrative charge and may be paid from the proceeds of the bonds or notes or from
32 any other available funds.

33 **"§ 142-90. Variable rate demand bonds and notes and financing contract**
34 **indebtedness.**

35 (a) In fixing the details of special indebtedness, the State Treasurer may make the
36 special indebtedness subject to any of the following conditions:

- 37 (1) It is payable from time to time on demand or tender for purchase by
38 the owner thereof, if a credit facility supports the special indebtedness,
39 unless the State Treasurer specifically determines that a credit facility
40 is not required upon a determination by the State Treasurer that the
41 absence of a credit facility will not materially and adversely affect the
42 financial position of the State or the marketing of the bonds or notes or
43 financing contract indebtedness at a reasonable interest cost to the
44 State.
- 45 (2) It is additionally supported by a credit facility.
- 46 (3) It is subject to redemption or mandatory tender for purchase prior to
47 maturity.
- 48 (4) It bears interest at a rate or rates that may be fixed or may vary over
49 any period of time, as may be provided in the proceedings providing
50 for the issuance or incurrence of the special indebtedness, including
51 any variations that may be permitted pursuant to a par formula.
- 52 (5) It is the subject of a remarketing agreement under which an attempt is
53 made to remarket special indebtedness to new purchasers before its
54 presentment for payment to the provider of the credit facility or to the
55 State.

1 (b) If the aggregate principal amount payable by the State under a credit facility
2 is in excess of the aggregate principal amount of special indebtedness secured by the
3 credit facility, whether as a result of the inclusion in the credit facility of a provision for
4 the payment of interest for a limited period of time or the payment of a redemption
5 premium or for any other reason, then the amount of authorized but unissued bonds or
6 notes and financing contract indebtedness during the term of the credit facility shall not
7 be less than the amount of the excess, unless the payment of the excess is otherwise
8 provided for by agreement of the State executed by the State Treasurer.

9 **"§ 142-91. Other agreements.**

10 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond
11 insurance, investment contracts, credit and liquidity facilities, credit enhancement
12 facilities, interest rate swap agreements and other derivative products, and any other
13 related instruments and matters the State Treasurer determines are desirable in
14 connection with the issuance of special indebtedness. The State Treasurer is authorized
15 to employ and designate any financial consultants, underwriters, fiduciaries, and bond
16 attorneys to be associated with any incurrence or issuance of special indebtedness under
17 this Article as the State Treasurer considers appropriate.

18 **"§ 142-92. Tax exemption.**

19 Special indebtedness shall at all times be free from taxation by the State or any
20 political subdivision or any of their agencies, excepting estate, inheritance, and gift
21 taxes; income taxes on the gain from the transfer of the indebtedness; and franchise
22 taxes. The interest component of any payments made by the State under special
23 indebtedness, including the interest component of any certificates of participation, is not
24 subject to taxation as to income.

25 **"§ 142-93. Investment eligibility.**

26 Special indebtedness are securities or obligations in which all of the following may
27 invest, including capital in their control or belonging to them: public officers, agencies,
28 and public bodies of the State and its political subdivisions; insurance companies, trust
29 companies, investment companies, banks, savings banks, savings and loan associations,
30 credit unions, pension or retirement funds, and other financial institutions engaged in
31 business in the State; and executors, administrators, trustees, and other fiduciaries.
32 Special indebtedness are securities or obligations that may properly and legally be
33 deposited with and received by any officer or agency of the State or political
34 subdivision of the State for any purpose for which the deposit of bonds, notes, or
35 obligations of the State or any political subdivision is now or may later be authorized by
36 law.

37 **"§ 142-94. Procurement of capital facilities.**

38 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General
39 Statutes and any other laws or rules of the State that relate to the acquisition and
40 construction of State property apply to the financing of capital facilities through the use
41 of special indebtedness pursuant to this Article. This section does not apply to the
42 construction and lease-purchase, including leases with an option to purchase at the end
43 of the lease term for a nominal sum, of State office buildings pursuant to proposals
44 submitted before the effective date of this Article in response to requests for proposals,
45 to the extent any of those proposals, as they may be supplemented or amended, are
46 approved by the Department of Administration and any of these leases or lease-purchase
47 agreements are approved by the Council of State in accordance with G.S.
48 143-341(4)d2."

49 **SECTION 46.3.** G.S. 143-341(4) is amended by adding a new
50 sub-subdivision to read:

51 "d2. To purchase or finance the purchase of buildings, utilities,
52 structures, or other facilities or property developments,
53 including streets and landscaping, the acquisition of land,
54 equipment, machinery, and furnishings in connection therewith;
55 additions, extensions, enlargements, renovations, and

1 improvements to existing buildings, utilities, structures, or other
2 facilities or property developments, including streets and
3 landscaping; land or any interest in land; other infrastructure;
4 furniture, fixtures, equipment, vehicles, machinery, and similar
5 items; or any combination of the foregoing, through
6 installment-purchase, lease-purchase, or other similar type
7 installment financing agreements in the manner and to the
8 extent provided in Article 9 of Chapter 142 of the General
9 Statutes. Any contract entered into or any proceeding instituted
10 contrary to the provisions of this paragraph is voidable in the
11 discretion of the Council of State."

12 **SECTION 46.4.** Interpretation of Part. (a) Additional Method. – This Part
13 provides an additional and alternative method for the doing of the things authorized by
14 this Part and shall be regarded as supplemental and additional to powers conferred by
15 other laws. Except where expressly provided, this Part shall not be regarded as in
16 derogation of any powers now existing. The authority granted in this Part is in addition
17 to other laws now or hereinafter enacted authorizing the State to issue or incur
18 indebtedness.

19 **SECTION 46.4.(b)** Statutory References. – References in this Part to
20 specific sections or Chapters of the General Statutes are intended to be references to
21 those sections or Chapters as they may be amended from time to time by the General
22 Assembly.

23 **SECTION 46.4.(c)** Liberal Construction. – This Part, being necessary for
24 the health and welfare of the people of the State, shall be liberally construed to effect its
25 purposes.

26 **SECTION 46.4.(d)** Severability. – If any provision of this Part or its
27 application to any person or circumstance is held invalid, that invalidity does not affect
28 other provisions or applications of the Part that can be given effect without the invalid
29 provision or application, and to this end the provisions of this Part are severable.

30 31 **PART XLVII LEASE-PURCHASE THREE NEW PRISONS**

32
33 Requested by: Senators Thomas, Garrou, Dalton, Hagan, Kerr, Jenkins, Holliman,
34 Soles

35 **SECTION 47.1.** G.S. 148-37.2 reads as rewritten:

36 "**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

37 (a) Authorization. – The Secretary of Correction may, as provided in this section,
38 enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~
39 close security correctional facilities ~~totaling up to 3,000 cells described in subsection~~
40 (a1) of this section to be operated by the Department pursuant to a lease that contains a
41 schedule for purchase of the facilities over a period of up to 20 years.

42 The State, with the prior approval of the Council of State and the State Treasurer as
43 provided in this section, is authorized to execute and deliver one or more lease-purchase
44 agreements with a special nonprofit corporation providing for the lease-purchase by the
45 State of the Projects from the special nonprofit corporation in connection with and
46 under an arrangement whereby certificates of participation are sold and delivered by the
47 special nonprofit corporation in order to provide funds to pay the purchase price of the
48 Projects. The Projects will be constructed by selected contractors designated to the
49 special nonprofit corporation by the State Property Office of the Department of
50 Administration in consultation with the Department of Correction. The selected
51 contractors will be responsible for arranging for and obtaining their own construction
52 financing, which will consist solely of private funds. The Projects will be sold to the
53 special nonprofit corporation, with the purchase price paid by the special nonprofit
54 corporation from the proceeds of the certificates of participation. The State may lease
55 the real property upon which the Projects will be located, if owned by the State, to the

1 selected contractors constructing the Projects and to the special nonprofit corporation
2 for nominal consideration.

3 (a1) Facilities Authorized. – The following facilities are authorized under this
4 section:

5 (1) 2001 Facilities. – Three close security correctional facilities totaling up
6 to 3,000 cells.

7 (2) 2003 Facilities. – Three close security correctional facilities
8 substantially identical to the facilities described in subdivision (1) of
9 this subsection and totaling up to 3,000 cells. If the State is able to
10 negotiate a contract for one or more of these facilities with the selected
11 contractor for the facilities described in subdivision (1) of this
12 subsection on terms that are reasonable and desirable to the State as
13 determined by the State Treasurer, the Secretary of Administration,
14 and the Council of State, then a request for proposals under subsection
15 (c) of this section is not required. The remaining provisions of this
16 section continue to apply.

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

18 (1) Certificates of participation. – Certificates or other instruments
19 delivered by a special nonprofit corporation as provided in this section
20 evidencing the assignment of proportionate and undivided interests in
21 the rights to receive lease payments to be made by the State pursuant
22 to a lease-purchase agreement.

23 (2) Construction contract agreement. – A contract between the Department
24 of Correction and the selected contractors for construction of the
25 Projects, under which the selected contractors will be responsible for
26 arranging for and obtaining their own construction financing, which
27 will consist solely of private funds.

28 (3) Lease-purchase agreement. – A lease-purchase agreement entered into
29 pursuant to this section, under which the State will lease the Projects
30 from the special nonprofit corporation, with option to purchase.

31 (4) ~~Projects. – Three close security correctional facilities providing up to~~
32 ~~3,000 cells~~ Facilities described in subsection (a1) of this section to be
33 constructed by selected contractors, sold to the special nonprofit
34 corporation, and leased to the State pursuant to this section.

35 (5) Purchase agreement. – A contract under which the special nonprofit
36 corporation will purchase the Projects from the selected contractors.

37 (6) Selected contractors. – One or more private firms selected to construct
38 the Projects.

39 (7) Special nonprofit corporation. – A nonprofit corporation created under
40 Chapter 55A of the General Statutes and designated by the State
41 Treasurer for entering into the transactions contemplated by this
42 section.

43 (c) Request for Proposals. – The Secretary of Correction may issue a request for
44 proposals to private firms for the private firms to construct the Projects in accordance
45 with plans and specifications developed by the Department of Correction and reviewed
46 by the Office of State Construction. ~~The request for proposals shall provide for the~~
47 ~~option of proposing on one or more of the facilities, and shall require each proposer to~~
48 ~~provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the~~
49 ~~General Assembly that the State may decide to accept proposals for only one, for two,~~
50 ~~or for all three facilities.~~

51 The Secretary of Correction shall make recommendations to the State Property
52 Office of the Department of Administration on the final award decision. The
53 Department of Correction and the State Property Office of the Department of
54 Administration shall consult with the Joint Legislative Commission on Governmental
55 Operations before making the final award decision. The Department of Administration

1 shall make the final award decision, which shall then be subject to the approval of the
2 Council of State.

3 The Department of Correction will enter into a construction contract agreement with
4 the selected contractors for the construction of the Projects. The special nonprofit
5 corporation will enter into a purchase agreement with the selected contractors for the
6 sale of the constructed Projects to the special nonprofit corporation. The Department of
7 Correction shall furnish plans and specifications for review by the State Construction
8 Office. Construction contract agreements entered into under this section shall provide
9 that the Department of Correction and the Office of State Construction shall inspect and
10 review each facility during construction to ensure and determine jointly that the facility
11 is suitable for use as a correctional facility and for future acquisition by the State. The
12 Department of Correction may contract with a design consortium for construction
13 administration services.

14 (d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may
15 not be entered into pursuant to this section unless the following conditions are met
16 before the lease-purchase agreement is entered into: (i) the Council of State, by
17 resolution, approves the execution and delivery of the lease-purchase agreement, and
18 (ii) the State Treasurer approves the lease-purchase agreement and all other
19 documentation related to it, including any leasehold deed of trust or trust agreement in
20 connection with it. The resolution of the Council of State may include any matters the
21 Council of State determines. In determining whether to approve the lease-purchase
22 agreement, the State Treasurer may consider any factors as the State Treasurer considers
23 relevant in order to find and determine that all of the following conditions are met:

- 24 (1) The principal amount to be financed under the lease-purchase
25 agreement is adequate and not excessive for the purpose of paying the
26 cost of the Projects.
- 27 (2) The increase, if any, in State revenues necessary to pay the sums to
28 become due under the lease-purchase agreement is not excessive.
- 29 (3) The lease-purchase agreement can be entered into on terms desirable
30 to the State.
- 31 (4) The sale of certificates of participation will not have an adverse effect
32 on any scheduled or proposed sale of obligations of the State or any
33 State agency or of any unit of local government in the State.

34 (e) Terms and Conditions. – The following provisions apply to a lease-purchase
35 agreement entered into under this section:

- 36 (1) In order to secure the performance by the State of its obligations under
37 the lease-purchase agreement, the lease-purchase agreement may
38 require the eviction of the State from the occupancy of one or more of
39 the Projects in the event that the State breaches its obligations and
40 agreements under the lease-purchase agreement.
- 41 (2) No deficiency judgment may be rendered against the State or any
42 agency, department, or commission of the State in any action for
43 breach of any obligation contained in the lease-purchase agreement or
44 any other related documentation, and the taxing power of the State or
45 any agency, department, or commission of the State is not and may not
46 be pledged to secure any moneys due under the lease-purchase
47 agreement.
- 48 (3) The lease-purchase agreement shall not contain a nonsubstitution
49 clause that restricts the right of the State to replace or provide a
50 substitute for the Projects.
- 51 (4) The lease-purchase agreement may include provisions requesting the
52 Governor to submit in the Governor's budget proposal, or any
53 amendments or supplements to it, appropriations necessary to make
54 the payments required under the lease-purchase agreement.

- 1 (5) The lease-purchase agreement may contain any provisions for
2 protecting and enforcing the rights and remedies of the special
3 nonprofit corporation that are reasonable and proper and not in
4 violation of law, including covenants setting forth the duties of the
5 State with respect to the Projects, which may include provisions
6 relating to insuring, operating, and maintaining the Projects and the
7 custody, safeguarding, investment, and application of moneys.
- 8 (6) The lease-purchase agreement may designate the lease payments to be
9 paid by the State under it to be "principal components" and "interest
10 components." Any interest component of the lease payments may be
11 calculated based upon a fixed or variable interest rate or rates as
12 determined by the State Treasurer.
- 13 (7) The lease-purchase agreement may be entered into by the State, and
14 certificates of participation may be delivered by the special nonprofit
15 corporation, at any time, including at times prior to the delivery of the
16 Projects to the special nonprofit corporation for purchase, and the
17 related delivery of occupancy of the Projects to the State by the special
18 nonprofit corporation. The costs incurred in connection with the
19 preparation of the lease-purchase agreement and related documents
20 and the delivery of the certificates of participation may be paid from
21 the proceeds of the certificates of participation.
- 22 (8) The State is authorized to agree in the lease-purchase agreement to
23 indemnify the special corporation and its directors and agents for any
24 liabilities that arise to the special corporation or directors or agents on
25 account of their participation in the activities contemplated by this act.
- 26 (f) Faith and Credit Not Pledged. – The payment of amounts payable by the State
27 under the lease-purchase agreement and other related documentation during any fiscal
28 biennium or fiscal year is limited to funds appropriated for that purpose by the General
29 Assembly in its discretion. No provision of this section and no lease-purchase
30 agreement creates any pledge of the faith and credit of the State or any agency,
31 department, or commission of the State within the meaning of any constitutional debt
32 limitation.
- 33 (g) Certificates of Participation. – The State may cooperate as necessary to
34 effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of
35 participation, including participating in the preparation of offering documents, the filing
36 of required tax forms and agreeing to comply with restrictions on the use of the Projects
37 as required in order for the interest component of the lease payments to be tax-exempt.
38 Disclosures and compliance with other federal law requirements by the special
39 nonprofit corporation shall be under the direction of the State Treasurer. Certificates of
40 participation may be sold at the direction of the State Treasurer in the manner, either at
41 public or private sale, and for any price or prices that the State Treasurer determines to
42 be in the best interest of the State and to effect the purposes of this section. Interest
43 payable with respect to certificates of participation shall accrue at the rate or rates
44 determined by the State Treasurer with the approval of the special nonprofit
45 corporation.
- 46 Certificates of participation may be delivered pursuant to a trust agreement with a
47 corporate trustee approved by the State Treasurer. The corporate trustee may be any
48 trust company or bank having the powers of a trust company within or without the State.
49 A trust agreement may (i) provide for security and pledges and assignments with respect
50 to the security as may be permitted under this section and further provide for the
51 enforcement of any lien or security interest created pursuant to this section, and (ii)
52 contain any provisions for protecting and enforcing the rights and remedies of the
53 owners of any certificates of participation that are reasonable and proper and not in
54 violation of law as determined by the State Treasurer. The State Treasurer shall
55 designate the professionals providing legal or financial services relating to the

1 lease-purchase agreement and the delivery of certificates of participation, including the
2 provider of any credit facility and the underwriter or placement agent for any
3 certificates of participation.

4 (h) Tax Exemption. – The lease purchase agreement and any certificates of
5 participation relating to it shall at all times be free from taxation by the State or any
6 political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes,
7 income taxes on the gain from the transfer of the lease-purchase agreement and
8 certificates of participation, and franchise taxes. The interest component of the lease
9 payments made by the State under the lease-purchase agreement, including the interest
10 payable with respect to any certificates of participation, is not subject to taxation as
11 income.

12 (i) Licensing Requirements. – The private for-profit or nonprofit firms
13 authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or
14 entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such~~
15 ~~proposal, this section,~~ need not be a licensed general contractor within the meaning of
16 G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or
17 entering a ~~Construction Contract Agreement or Purchase Agreement~~ shall not be
18 ~~deemed construction contract agreement or purchase agreement~~ is not general
19 contracting within the meaning of G.S. 87-1; ~~provided that this~~ 87-1. This subsection
20 ~~shall not be deemed to~~ does not remove the actual construction of any prison facility
21 from the provisions of G.S. 87-1.

22 (j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects
23 authorized in this section."

24 25 PART XLVIII. GENERAL PROVISIONS

26
27 Requested by: Senators Garrou, Dalton, Hagan

28 **SECTION 48.1.** Parts 32 through 47 of this act do not affect the rights or
29 liabilities of the State, a taxpayer, or another person arising under a statute amended or
30 repealed by those parts before the effective date of its amendment or repeal; nor does it
31 affect the right to any refund or credit of a tax that accrued under the amended or
32 repealed statute before the effective date of its amendment or repeal.

33 **SECTION 48.2.** Except as otherwise provided in this act, parts 32 through
34 48 of this act are effective when this act becomes law.

35 36 PART XLIX. MISCELLANEOUS PROVISIONS

37
38 Requested by: Senators Garrou, Dalton, Hagan

39 EXECUTIVE BUDGET ACT APPLIES

40 **SECTION 49.1.** The provisions of the Executive Budget Act, Chapter 143,
41 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
42 and are incorporated in this act by reference.

43
44 Requested by: Senators Garrou, Dalton, Hagan

45 COMMITTEE REPORT

46 **SECTION 49.2.(a)** The Senate Appropriations/Base Budget Committee
47 Report on the Continuation, Expansion and Capital Budgets, dated April 28, 2003,
48 which was distributed in the Senate and used to explain this act, shall indicate action by
49 the General Assembly on this act and shall therefore be used to construe this act, as
50 provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be
51 considered a part of this act and as such shall be printed as a part of the Session Laws.

52 **SECTION 49.2.(b)** The budget enacted by the General Assembly for the
53 maintenance of the various departments, institutions, and other spending agencies of the
54 State for the 2003-2005 fiscal biennium is a line-item budget, in accordance with the
55 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set

1 out in the Administrative Policies and Procedures Manual of the Office of the State
2 Controller. This budget includes the appropriations made from all sources including the
3 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
4 departmental receipts.

5 The General Assembly amended the itemized budget requests submitted to
6 the General Assembly by the Director of the Budget and the Advisory Budget
7 Commission, in accordance with the steps that follow and the line-item detail in the
8 budget enacted by the General Assembly may be derived accordingly:

9 (1) The base budget was adjusted in accordance with the base budget cuts
10 and additions that were set out in the Senate Appropriations/Base
11 Budget Committee Report on the Continuation, Expansion and Capital
12 Budgets, dated April 28, 2003, together with any accompanying
13 correction sheets.

14 (2) Transfers of funds supporting programs were made in accordance with
15 the Senate Appropriations Committee Report on the Continuation,
16 Expansion and Capital Budgets, dated April 28, 2003, together with
17 any accompanying correction sheets.

18 **SECTION 49.2.(c)** The budget enacted by the General Assembly shall be
19 interpreted in accordance with the special provisions in this act and in accordance with
20 other appropriate legislation.

21 In the event that there is a conflict between the line-item budget certified by
22 the Director of the Budget and the budget enacted by the General Assembly, the budget
23 enacted by the General Assembly shall prevail.
24

25 Requested by: Senators Garrou, Dalton, Hagan

26 **MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM**

27 **SECTION 49.3.** Except for statutory changes or other provisions that clearly
28 indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual
29 provisions of this act apply only to funds appropriated for, and activities occurring
30 during, the 2003-2005 fiscal biennium.
31

32 Requested by: Senators Garrou, Dalton, Hagan

33 **EFFECT OF HEADINGS**

34 **SECTION 49.4.** The headings to the parts and sections of this act are a
35 convenience to the reader and are for reference only. The headings do not expand,
36 limit, or define the text of this act, except for effective dates referring to a Part.
37

38 Requested by: Senators Garrou, Dalton, Hagan

39 **SEVERABILITY CLAUSE**

40 **SECTION 49.5.** If any section or provision of this act is declared
41 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
42 whole or any part other than the part so declared to be unconstitutional or invalid.
43

44 Requested by: Senators Garrou, Dalton, Hagan

45 **EFFECTIVE DATE**

46 **SECTION 49.6.** Except as otherwise provided, this act becomes effective
47 July 1, 2003.