

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**3**

**SENATE BILL 352**  
Appropriations Committee Substitute Adopted 4/22/97  
Third Edition Engrossed 4/23/97

Short Title: Current Operations & Capital Budget Act.

(Public)

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Sponsors:

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Referred to:

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March 10, 1997

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS AND FOR  
3 CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS,  
4 AND AGENCIES, AND FOR OTHER PURPOSES.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. INTRODUCTION, TITLE OF ACT, AND INDEX**

8  
9 **INTRODUCTION**

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

16  
17 **TITLE OF ACT**

1 Section 1.1. This act shall be known as "The Current Operations and Capital  
2 Improvements Appropriations Act of 1997."

3  
4 \*\*\*\*\*

5  
6 An outline of the provisions of the act follows this section. The outline shows  
7 the heading "~~---CONTENTS/INDEX---~~" and it lists by general category the descriptive  
8 captions for the various sections and groups of sections that make up the act.

9  
10 ~~---CONTENTS/INDEX---~~

11  
12 (This outline is designed for reference only, and the outline and the  
13 corresponding entries throughout the act in no way limit, define, or prescribe the scope or  
14 application of the text of the act.)

15

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31	CERTAIN EMBEZZLEMENT OFFENSES/RECLASSIFY OFFENSE	
32	OF ACCESSORY AFTER THE FACT/INCREASE PENALTY FOR	
33	VOLUNTARY MANSLAUGHTER FROM A CLASS E FELONY TO	
34	A CLASS D FELONY/REQUIRE ACTIVE TIME FOR HABITUAL	
35	IMPAIRED DRIVING CONVICTIONS/INCREASE THE PENALTY	
36	FOR CERTAIN OFFENSES COMMITTED WHILE A PERSON IS	
37	INCARCERATED/ADD TO THE LIST OF AGGRAVATING	
38	FACTORS THAT CERTAIN PEOPLE WERE SERIOUSLY	
39	INJURED AS A RESULT OF THE OFFENSE/INCREASE THE	
40	PENALTY FOR THE ESTABLISHMENT OF PYRAMID	
41	DISTRIBUTION PLANS/ESTABLISH THE OFFENSES OF	
42	TRESPASS ON PINE STRAW PRODUCTION LAND AND	
43	LARCENY OF PINE STRAW/INCREASE THE PENALTY FROM A	

1	MISDEMEANOR TO A CLASS H FELONY FOR THE OFFENSES	
2	OF FALSELY REPORTING THAT A BOMB OR OTHER	
3	DESTRUCTIVE DEVICE MAY EXPLODE AND PERPETRATING	
4	A HOAX BY USING A FALSE DESTRUCTIVE DEVICE/ADD TO	
5	THE LIST OF AGGRAVATING FACTORS THAT THE OFFENSE	
6	WAS COMMITTED IN ASSOCIATION WITH A CRIMINAL	
7	STREET GANG/FELONY TO CONCEAL MERCHANDISE BY	
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14

**PART II. CURRENT OPERATIONS/GENERAL FUND**

15

17 Section 2. Appropriations from the General Fund of the State for the  
 18 maintenance of the State departments, institutions, and agencies, and for other purposes  
 19 as enumerated are made for the biennium ending June 30, 1999, according to the  
 20 following schedule:

21

<u>Current Operations - General Fund</u>	<u>1997-98</u>	<u>1998-99</u>
24 General Assembly	\$ 31,226,277	\$ 34,642,598
26 Judicial Department	330,494,045	327,026,897
28 Office of the Governor		
29 01. Office of the Governor	5,338,531	5,248,662
30 02. Office of State Budget		
31 and Management	8,798,018	6,980,838
32 03. Office of State Planning	1,802,450	1,815,850
33 04. Housing Finance Agency	7,300,000	2,300,000
34		
35 Office of the Lieutenant Governor	609,230	609,390
36		
37 Department of Secretary of State	6,553,012	5,310,680
38		
39 Department of State Auditor	10,184,864	10,207,231
40		
41 Department of State Treasurer	18,608,824	18,591,281
42		
43 Department of Public Education	4,494,511,060	4,474,255,103

1			
2	Department of Justice	65,645,494	65,251,598
3			
4	Department of Administration	57,570,275	58,050,143
5			
6	Department of Agriculture	51,352,521	49,658,593
7			
8	Department of Labor	15,888,309	15,808,138
9			
10	Department of Insurance	23,340,279	23,388,786
11			
12	Department of Transportation	10,609,854	11,246,445
13			
14	Department of Environment, Health, and		
15	Natural Resources	287,567,592	253,734,207
16			
17	Office of Administrative Hearings	2,357,389	2,357,389
18			
19	Rules Review Commission	521,892	273,441
20			
21	Department of Human Resources		
22	01. Office of the Secretary	36,756,324	32,522,064
23	02. Division of Aging	23,391,916	22,695,592
24	03. Division of Child Development	145,295,712	148,361,531
25	04. Division of Services for the		
26	Deaf and Hard of Hearing	27,917,978	27,871,807
27	05. Division of Social Services	178,018,722	182,638,757
28	06. Division of Medical Assistance	1,214,561,594	1,365,738,621
29	07. Division of Services		
30	for the Blind	15,365,511	15,383,493
31	08. Division of Mental Health,		
32	Developmental Disabilities, and		
33	Substance Abuse Services	525,288,587	545,054,856
34	09. Division of Facility Services	9,580,211	8,981,543
35	10. Division of Vocational		
36	Rehabilitation Services	32,534,755	32,834,876
37	11. Division of Youth Services	87,480,359	89,215,373
38	Total Department of Human Resources	2,296,191,669	2,471,298,513
39			
40	Department of Correction	827,096,649	871,187,159
41			
42	Department of Commerce		
43	01. Commerce	46,799,494	39,822,339

1	02.	Biotechnology Center	15,164,396	7,664,396	
2	03.	MCNC	4,500,000	2,500,000	
3	04.	Rural Economic Development			
4		Center	8,520,000	5,920,000	
5	05.	State Aid to non-State			
6		Entities	10,155,000	-0-	
7					
8		Department of Revenue		67,321,074	68,399,075
9					
10		Department of Cultural Resources		65,190,328	56,198,672
11					
12		Department of Crime Control			
13		and Public Safety		33,496,663	33,506,097
14					
15		Office of the State Controller		20,892,773	10,705,706
16					
17		University of North Carolina - Board			
18		of Governors			
19	01.	General Administration	37,443,621	37,490,589	
20	02.	University Institutional			
21		Programs	97,214,520	96,928,593	
22	03.	Related Educational Programs	66,719,781	68,927,746	
23	04.	University of North Carolina			
24		at Chapel Hill			
25		a. Academic Affairs	162,467,906	164,447,736	
26		b. Health Affairs	132,016,759	132,683,647	
27		c. Area Health Education			
28		Centers	38,509,297	38,490,957	
29	05.	North Carolina State University			
30		at Raleigh			
31		a. Academic Affairs	211,354,779	212,008,650	
32		b. Agricultural Research Service	41,079,652	41,103,356	
33		c. Cooperative Extension Service	32,591,088	32,583,657	
34	06.	University of North Carolina at			
35		Greensboro	62,615,773	63,259,089	
36	07.	University of North Carolina at			
37		Charlotte	68,572,932	69,126,175	
38	08.	University of North Carolina at			
39		Asheville	20,148,640	20,203,241	
40	09.	University of North Carolina at			
41		Wilmington	38,963,548	39,379,132	
42	10.	East Carolina University			
43		a. Academic Affairs	85,275,602	85,913,647	



1	b. Division of Health Affairs	41,088,406	41,131,370
2	11. North Carolina Agricultural and		
3	Technical State University	49,636,690	50,018,152
4	12. Western Carolina University	43,611,199	43,669,964
5	13. Appalachian State University	62,165,987	62,475,339
6	14. The University of North		
7	Carolina at Pembroke	18,657,889	18,532,989
8	15. Winston-Salem State University	20,085,918	20,107,862
9	16. Elizabeth City State		
10	University	18,063,568	18,081,627
11	17. Fayetteville State University	23,655,086	23,823,586
12	18. North Carolina Central		
13	University	35,630,746	36,325,468
14	19. North Carolina School of the		
15	Arts	11,842,424	11,889,783
16	20. North Carolina School of		
17	Science and Mathematics	9,519,375	9,582,725
18	21. UNC Hospitals at Chapel Hill	42,004,841	42,004,841
19	Total University of North		
20	Carolina - Board of Governors	1,470,936,027	1,480,189,921
21			
22	Department of Community Colleges	520,210,489	500,518,415
23			
24	State Board of Elections	1,552,787	2,135,381
25			
26	Contingency and Emergency	1,125,000	1,125,000
27			
28	Reserve for Compensation Increase	306,139,421	306,139,421
29			
30	Reserve for Salary Adjustments	9,073,829	9,573,829
31			
32	Debt Service	156,436,663	209,371,883
33			
34	Reserve for Structured Sentencing	400,000	400,000
35			
36	Postage Reduction		(300,000)
37			(300,000)
38			
39	Debt Service - Federal		1,155,948
40			1,155,948
41			
42	GRAND TOTAL CURRENT OPERATIONS –		

1 GENERAL FUND \$11,292,338,126  
 2 \$11,444,269,025  
 3

#### 4 PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

5  
 6 Section 3. Appropriations from the Highway Fund of the State for the  
 7 maintenance and operation of the Department of Transportation, and for other purposes  
 8 as enumerated, are made for the biennium ending June 30, 1999, according to the  
 9 following schedule:

10		<u>1997-98</u>	<u>1998-99</u>
11	<u>Current Operations - Highway Fund</u>		
12	Department of Transportation		
13	01. Administration \$ 57,934,614	\$ 58,109,718	
14	02. Operations 34,667,278	34,723,375	
15	03. Construction and Maintenance		
16	a. Construction		
17	(01) Primary Construction	-	-
18	(02) Secondary Construction	80,656,000	83,283,000
19	(03) Urban Construction	14,000,000	14,000,000
20	(04) Access and Public		
21	Service Roads	2,000,000	2,000,000
22	(05) Discretionary Fund	10,000,000	10,000,000
23	(06) Spot Safety Construction	9,100,000	9,100,000
24	b. State Funds to Match Federal		
25	Highway Aid	27,329,255	36,112,802
26	c. State Maintenance 455,042,811	443,575,794	
27	d. Ferry Operations 18,098,290	18,098,290	
28	e. Capital Improvements 12,100,000	0	
29	f. State Aid to Municipalities 80,656,000	83,283,000	
30	g. State Aid for Public		
31	Transportation & Railroads	42,846,921	29,446,921
32	h. OSHA - State 925,000	425,000	
33	04. Governor's Highway Safety Program 311,609	312,080	
34	05. Division of Motor Vehicles 89,841,542	89,755,363	
35	06. Reserves and Transfers <u>236,277,924</u>	<u>232,400,394</u>	
36	GRAND TOTAL CURRENT OPERATIONS		
37	AND EXPANSION	\$1,171,787,244	\$1,144,625,737

#### 39 PART IV. HIGHWAY TRUST FUND

40  
 41 Section 4. Appropriations from the Highway Trust Fund are made for the  
 42 fiscal biennium ending June 30, 1999, according to the following schedule:  
 43

<u>Highway Trust Fund</u>	<u>1997-98</u>	<u>1998-99</u>
01. Intrastate System	\$381,880,586	\$397,487,432
02. Secondary Roads Construction	80,411,583	82,983,836
03. Urban Loops	145,502,060	151,443,802
04. State Aid - Municipalities	40,068,181	41,705,703
05. Program Administration	25,918,895	27,072,575
06. Transfer to General Fund	<u>170,000,000</u>	<u>170,000,000</u>
<b>GRAND TOTAL - HIGHWAY TRUST FUND</b>	<b>\$843,781,305</b>	<b>\$870,693,348</b>

**PART V. BLOCK GRANT FUNDS**

Requested by: Senator Martin of Guilford

**DHR BLOCK GRANT PROVISIONS**

Section 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1998, according to the following schedule:

**COMMUNITY SERVICES BLOCK GRANT**

- 01. Community Action Agencies \$ 11,546,034
- 02. Limited Purpose Agencies 641,446
- 03. Department of Human Resources  
to administer and monitor  
the activities of the  
Community Services Block Grant 641,446

**TOTAL COMMUNITY SERVICES BLOCK GRANT** \$ 12,828,926

**SOCIAL SERVICES BLOCK GRANT**

- 01. County departments of social services \$ 31,121,352
- 02. Allocation for in-home services provided  
by county departments of  
social services 2,101,113
- 03. Division of Mental Health, Developmental  
Disabilities, and Substance Abuse Services 4,764,124
- 04. Division of Services for the Blind 3,205,711
- 05. Division of Youth Services 950,674

- 1       06.    Division of Facility Services   343,341
- 2
- 3       07.    Division of Aging - Home and Community
- 4            Care Block Grant           1,915,234
- 5
- 6       08.    Day care services           15,694,900
- 7
- 8       09.    Division of Vocational Rehabilitation -
- 9            United Cerebral Palsy   71,484
- 10
- 11      10.    State administration       1,954,237
- 12
- 13      11.    Child Medical Evaluation Program   238,321
- 14
- 15      12.    Adult day care services 599,551
- 16
- 17      13.    County departments of social services for
- 18            child abuse/prevention and
- 19            permanency planning   394,841
- 20
- 21      14.    Transfer to Preventive Health
- 22            Block Grant for emergency medical services 213,128
- 23
- 24      15.    Allocation to Preventive Health Block
- 25            Grant for AIDS education, counseling,
- 26            and testing           66,939
- 27
- 28      16.    Transfer to Department of Administration
- 29            for the N.C. Commission of Indian Affairs
- 30            In-Home Services Program for the elderly   203,198
- 31
- 32      17.    Division of Vocational Rehabilitation -
- 33            Easter Seals Society    116,779
- 34
- 35      18.    UNC-CH CARES Program for training and
- 36            consultation services   247,920
- 37
- 38      19.    Transfer to Department of Environment, Health,
- 39            and Natural Resources for the Adolescent
- 40            Pregnancy Prevention Program   239,261
- 41
- 42      20.    Office of the Secretary - Office of Economic
- 43            Opportunity for N.C. Senior Citizens'

1	Federation for outreach services to		
2	low-income elderly persons	41,302	
3			
4	21. County departments of social services		
5	for foster care workers	1,000,000	
6			
7	22. Division of Mental Health, Developmental		
8	Disabilities, and Substance Abuse		
9	Services for juvenile offenders	1,182,280	
10			
11	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 66,665,690
12			
13	LOW-INCOME ENERGY BLOCK GRANT		
14			
15	01. Energy Assistance Programs	\$ 6,284,055	
16			
17	02. Crisis Intervention	6,393,661	
18			
19	03. Administration	1,428,386	
20			
21	04. Weatherization Program	4,128,479	
22			
23	05. Indian Affairs	33,022	
24			
25	TOTAL LOW-INCOME ENERGY BLOCK GRANT		\$ 18,267,603
26			
27	MENTAL HEALTH SERVICES BLOCK GRANT		
28			
29	01. Provision of community-based		
30	services in accordance with the		
31	Mental Health Study Commission's		
32	Adult Severe and Persistently		
33	Mentally Ill Plan	\$ 3,794,179	
34			
35	02. Provision of community-based		
36	services in accordance with the		
37	Mental Health Study Commission's		
38	Child Mental Health Plan	1,819,931	
39			
40	03. Administration	624,231	
41			
42	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		\$ 6,238,341
43			

1 BLOCK GRANT FOR THE PREVENTION AND  
2 TREATMENT OF SUBSTANCE ABUSE

- 3  
4 01. Provision of community-based  
5 alcohol and drug abuse services,  
6 tuberculosis services, and services  
7 provided by the Alcohol, Drug Abuse  
8 Treatment Centers \$ 10,935,939  
9  
10 02. Continuation of services for  
11 pregnant women and women  
12 with dependent children 5,060,076  
13  
14 03. Continuation and expansion of  
15 services to IV drug abusers and others  
16 at risk for HIV diseases 4,836,407  
17  
18 04. Provision of services in accordance with  
19 the Mental Health Study Commission's  
20 Child and Adolescent Alcohol and Other  
21 Drug Abuse Plan 5,964,093  
22  
23 05. Former SSI recipient services 1,123,757  
24  
25 06. Gender specific services and Employee  
26 Assistance Program services for Work First  
27 recipients 893,811  
28  
29 07. Juvenile offender services and substance  
30 abuse pilot 300,000  
31  
32 08. Administration 1,841,742  
33

34 TOTAL BLOCK GRANT FOR PREVENTION  
35 AND TREATMENT OF SUBSTANCE ABUSE

\$ 30,955,825

36  
37 CHILD CARE AND DEVELOPMENT BLOCK GRANT

- 38  
39 01. Child care services \$ 17,581,167  
40  
41 02. Administrative expenses and quality  
42 and availability initiatives 488,366  
43

1	03.	Before and After School Child Care Programs	
2		and Early Childhood Development Programs	1,750,000
3			
4	04.	Quality improvement activities	740,000
5			
6	TOTAL CHILD CARE AND DEVELOPMENT		
7	BLOCK GRANT		
8			\$ 20,559,533
9	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
10			
11	01.	Child care subsidies	\$ 99,845,334
12			
13	02.	Quality and availability initiatives	4,388,806
14			
15	03.	Administrative expenses	5,486,007
16			
17	04.	Transfer from TANF Block Grant for	
18		child care subsidies and support	27,034,556
19			
20	TOTAL CHILD CARE AND DEVELOPMENT FUND		
21	BLOCK GRANT		
22			\$136,754,703
23	TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
24	BLOCK GRANT		
25			
26	01.	Work First Cash Assistance	\$262,747,194
27			
28	02.	Block Grants to county departments	
29		of social services (partial funding)	19,281,882
30			
31	03.	Transfer to Child Care and Development	
32		Fund for child care subsidies to replace	
33		State funds used for Smart Start and	
34		other expansion	23,276,545
35			
36	04.	Transfer to the Child Care and	
37		Development Fund for Work First child	
38		care subsidies	3,758,011
39			
40	05.	Allocation to the Division of Mental	
41		Health, Developmental Disabilities, and	
42		Substance Abuse Services for Work First	
43		substance abuse treatment services	1,000,000

1			
2	06.	Allocation to the Division of Social	
3		Services for evaluation 700,000	
4			
5	07.	Allocation to the Division of Social	
6		Services for Community College	
7		collaboration 500,000	
8			
9	08.	Allocation to the Division of Social	
10		Services for staff development 500,000	
11			
12	09.	Allocation to the Department of	
13		Environment, Health, and Natural	
14		Resources for the reduction of	
15		out-of-wedlock births 1,600,000	
16			
17	10.	Allocation to the Division of Mental	
18		Health, Developmental Disabilities, and	
19		Substance Abuse Services for screening,	
20		diagnostic, and counseling services	
21		related to substance abuse services	
22		for Work First participants 2,300,000	
23			
24	11.	Transfer to the Social Services Block Grant	
25		for substance abuse services for juveniles 1,182,280	
26			
27	12.	Carryforward to Fiscal Year 1998-99 565,203	
28			
29	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
30	BLOCK GRANT		\$317,411,115
31			

(b) Decreases in Federal Fund Availability

If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of the federal block grants listed above shall be reduced equally to total the reduction in federal funds.

(c) Increases in Federal Fund Availability - Block Grant Funds Except the Social Services Block Grant

Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Human Resources, provided that the resultant increases are in accordance with federal block grant requirements, by allocating the additional funds pro rata among the programs funded in this section.

(d) Increases in Federal Fund Availability - Social Services Block Grant



1 Any block grant funds appropriated by the United States Congress in addition  
2 to the funds specified in this act shall be expended by the Department of Human  
3 Resources, provided the resultant increases are in accordance with federal block grant  
4 requirements, as follows:

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

7 (2) The remaining fifty percent (50%) shall be allocated pro rata  
8 among the programs funded in this section.

9 All these budgeted increases shall be reported to the Joint Legislative  
10 Commission on Governmental Operations and to the Fiscal Research Division.

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

16 (f) Funding for the Weatherization Program from the Low-Income Energy  
17 Block Grant is contingent upon approval of a federal waiver to increase funding. In the  
18 event the federal waiver is not approved, the funds appropriated for the Weatherization  
19 Program will be reduced to fifteen percent (15%) of the Block Grant, and excess funds  
20 will be transferred to the Crisis Intervention Program.

21 (g) The Department of Environment, Health, and Natural Resources and the  
22 county departments of public health shall consult with the Department of Human  
23 Resources and the county departments of social services on the expenditure of the funds  
24 allocated to the Department of Environment, Health, and Natural Resources from the  
25 Temporary Assistance to Needy Families Block Grant to ensure that those funds are used  
26 for meeting the goal of reducing out-of-wedlock births.

27 (h) The Department of Human Resources, Division of Mental Health,  
28 Developmental Disabilities, and Substance Abuse Services, shall consult with the county  
29 departments of social services and the area mental health programs on the expenditure of  
30 funds allocated to the Department of Human Resources from the Temporary Assistance  
31 to Needy Families Block Grant to ensure that those funds are used for substance abuse  
32 services.

33 (i) The Department of Human Resources, Division of Mental Health,  
34 Developmental Disabilities, and Substance Abuse Services, shall consult with the  
35 Department of Human Resources, Division of Youth Services, the Administrative Office  
36 of the Courts, local juvenile court counselors, and local area mental health programs on  
37 the expenditure of the funds allocated to the Department of Human Resources from the  
38 Social Services Block Grant to ensure that those funds are used for substance abuse  
39 services for juveniles.

40 (j) By January 1, 1998, the Department of Human Resources shall report to the  
41 Senate and House Appropriations Subcommittees on Human Resources on the process  
42 undertaken for determining how the funds described in subsections (g), (h), and (i) of this  
43 section will be allocated.

1 (k) The Department of Human Resources shall administer Community Service  
2 Block Grant Funds for community action agencies and the General Fund base budget  
3 reduction for community action agencies so that no community action agency receives  
4 less from State and federal funds for the 1997-98 fiscal year than it received for the 1996-  
5 97 fiscal year.

6  
7 **NER BLOCK GRANT FUNDS**

8 Section 5.1. (a) Appropriations from federal block grant funds are made for  
9 the fiscal year ending June 30, 1998, according to the following schedule:

10  
11 **COMMUNITY DEVELOPMENT BLOCK GRANT**

12			
13	01.	State Administration	\$ 1,000,000
14			
15	02.	Urgent Needs and Contingency	2,177,500
16			
17	03.	Community Empowerment	2,000,000
18			
19	04.	Economic Development	8,710,000
20			
21	05.	Community Revitalization	29,000,000
22			
23	06.	State Technical Assistance	450,000
24			
25	07.	Housing Development	1,662,500
26			

27 **TOTAL COMMUNITY DEVELOPMENT**

28 **BLOCK GRANT - 1998 Program Year** \$ 45,000,000

29  
30 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

31			
32	01.	Healthy Mother/Healthy Children	
33		Block Grants to Local Health	
34		Departments	\$ 9,838,074
35			
36	02.	High Risk Maternity Clinic Services,	
37		Perinatal Education and Training,	
38		Childhood Injury Prevention,	
39		Public Information and Education, and	
40		Technical Assistance to Local Health	
41		Departments	1,722,869
42			
43	03.	Services to Children With Special Health	

1	Care Needs	4,954,691	
2			
3	TOTAL MATERNAL AND CHILD		
4	HEALTH BLOCK GRANT		\$ 16,515,634
5			
6	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
7			
8	01. Emergency Medical Services	\$ 213,128	
9			
10	02. Hypertension Programs	711,813	
11			
12	03. Statewide Health Promotion Programs		2,777,924
13			
14	04. Dental Health for Fluoridation		
15	of Water Supplies	224,170	
16			
17	05. Rape Prevention and Rape		
18	Crisis Programs	187,110	
19			
20	06. Rape Prevention and Rape Education	935,552	
21			
22	07. AIDS/HIV Education, Counseling,		
23	and Testing	66,939	
24			
25	08. Office of Minority Health and		
26	Minority Health Council	186,478	
27			
28	09. Administrative and Indirect Cost	217,762	
29			
30	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$ 5,520,876

## (b) Decreases in Federal Fund Availability

Decreases in federal fund availability shall be allocated as follows:

- (1) For the Community Development Block Grants – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.
- (2) For the Maternal and Child Health and Preventive Health Services federal block grant – If federal funds are reduced less than ten percent (10%) below the amounts specified above after the effective date of this act, then every program in the Maternal and Child Health and in the Preventive Health Services block grants shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced

1 by ten percent (10%) or more below the amounts specified above after  
2 the effective date of this act, then for the Maternal and Child Health and  
3 the Preventive Health Services block grants the Department of  
4 Environment, Health, and Natural Resources shall allocate the decrease  
5 in funds after considering the effectiveness of the current level of  
6 services.

7 (c) Increases in Federal Fund Availability

8 Any block grant funds appropriated by the Congress of the United States in  
9 addition to the funds specified in this act shall be expended as follows:

10 (1) For the Community Development Block Grant – Each program category  
11 under the Community Development Block Grant shall be increased by  
12 the same percentage as the increase in federal funds.

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

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

24 (d) Changes to budgeted allocations to the Maternal and Child Health and the  
25 Preventive Health Services block grants due to increases or decreases in federal funds  
26 shall be reported to the Joint Legislative Commission on Governmental Operations and  
27 the Fiscal Research Division within 30 days of the allocation. All other increases shall be  
28 reported to the Joint Legislative Commission on Governmental Operations and to the  
29 Director of the Fiscal Research Division.

30 (e) Limitations on Community Development Block Grant Funds

31 Of the funds appropriated in this section for the Community Development  
32 Block Grant, the following shall be allocated in each category for each program year: up  
33 to one million dollars (\$1,000,000) may be used for State administration; up to two  
34 million one hundred seventy-seven thousand five hundred dollars (\$2,177,500) may be  
35 used for Urgent Needs and Contingency; up to two million dollars (\$2,000,000) may be  
36 used for Community Empowerment; up to eight million seven hundred ten thousand  
37 dollars (\$8,710,000) may be used for Economic Development; not less than twenty-nine  
38 million dollars (\$29,000,000) shall be used for Community Revitalization; up to four  
39 hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up  
40 to one million six hundred sixty-two thousand five hundred (\$1,662,500) may be used for  
41 Housing Development. If federal block grant funds are reduced or increased by the  
42 Congress of the United States after the effective date of this act, then these reductions or  
43 increases shall be allocated in accordance with subsection (b) or (c) of this section, as

1 applicable. If funds are available from program income, deobligated funds, or urgent  
 2 needs and contingency, then the Department of Commerce shall use up to five hundred  
 3 thousand dollars (\$500,000) for an Infrastructure Demonstration Project that will focus  
 4 on innovative approaches to straight piping and pit privy problems.

5 (f) Limitations on Preventive Health Service Block Grant Funds

6 Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape  
 7 Education shall be allocated as grants to nonprofit organizations to provide rape  
 8 prevention and education programs targeted for middle, junior high, and high school  
 9 students. Any rape crisis center or other nonprofit organization that receives funds under  
 10 this section to provide rape education and rape prevention programs to schools shall give  
 11 priority to schools with an abstinence-based sex education curriculum.

12  
 13 **PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY**  
 14 **STATEMENTS**

15  
 16 **GENERAL FUND AVAILABILITY STATEMENTS**

17 Section 6. The General Fund and availability used in developing the 1997-99  
 18 budget is as shown below:

19  
 20 Budget Reform Statement

21 (\$ Millions)

22 (1) Composition of the 1997-98 beginning availability:

23 a. Revenue collections unaddressed in 1996-97 \$ 85.0

24 b. Revenue collections in 1996-97 in excess of  
 25 authorized estimates 228.6

26 c. Unexpended appropriations during  
 27 1996-97 (reversions) 151.0

28 d. Adjustment for Emergency Appropriation to  
 29 Community Colleges (4.7)

30 Subtotal 459.9

31 e. Transfer to Savings Reserve (115.0)

32 f. Transfer to Reserve for Repairs  
 33 and Renovations (135.0)

34 g. Transfer to Clean Water Management Reserve (30.0)

35 h. Appropriation Adjustment in 1996-97 .3

36 Ending Fund Balance 180.2

37  
 38 (\$ Millions) (\$ Millions)

39 1997-98 1998-99

40 (2) Beginning Unrestricted Fund Balance 180.2

41 (3) Revenues Based on Existing Tax

42 Structure 11,089.7 11,754.2

43 (4) Tax Changes:

1	H57 - Nonresident Withholding	8.5	10.0		
2	H59 - Internal Revenue Code Update	(8.5)	(16.8)		
3	S323 - Historic Rehabilitation Tax Credit	(0.1)	(0.1)		
4	H260 - Conservation Tax Credit	(3.2)			
5	S93 - Ports Tax Credit	(1.5)			
6	(5) Court Fee Increases			13.9	15.1
7	(6) Insurance Regulatory Charge			3.1	3.1
8	(7) Utilities Regulatory Charge			(0.1)	(0.1)
9	(8) Secretary of State - Fee Increase			1.7	1.7
10	(9) Treasurer's Banking Fees			.1	.1
11					
12	(10) Local Sales Tax - Local Government				
13	Commission	.1	.1		
14	(11) Revenue - Corporate Filing Charge			.3	.3
15	(12) Interest on Bond Proceeds			35.0	-
16	(13) Local Government Payments - Clean				
17	Water Bonds	4.1	4.0		
18	(14) Disproportionate Share Receipts			83.0	83.0
19	(15) Highway Fund Transfer			12.6	13.4
20	(16) Revenue Assessments for additional				
21	Interstate Auditors	2.6	7.9		
22	(17) State Health Plan Purchasing Alliance				
23	Board - Transfer Cash Balance	0.6			
24	(18) Earmarked Refunds for				
25	Federal Retirees	<u>(35.5)</u>	<u>(35.5)</u>		
26					
27	Total Availability			\$11,391.3	\$11,835.7

29 Requested by: Senators Plyler, Perdue, Odom

30 **HIGHWAY FUND AVAILABILITY**

31 Section 6.1. The Highway Fund appropriations availability used in developing  
 32 the 1997-99 Highway Fund budget is shown below:

33		<u>1997-98</u>	<u>1998-99</u>		
34	Beginning Credit Balance	\$ 46,835,492		\$ -	
35	Estimated Revenue	1,124,951,752		1,144,625,737	
36					
37	Total Highway Fund Availability	\$1,171,787,244		\$1,144,625,737	

39 **PART VII. GENERAL PROVISIONS**

41 Requested by: Senators Odom, Plyler, Perdue

42 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL**  
 43 **RECEIPTS/AUTHORIZATION FOR EXPENDITURES**

1 Section 7. There is appropriated out of the cash balances, federal receipts, and  
2 departmental receipts available to each department, sufficient amounts to carry on  
3 authorized activities included under each department's operations. All these cash  
4 balances, federal receipts, and departmental receipts shall be expended and reported in  
5 accordance with provisions of the Executive Budget Act, except as otherwise provided by  
6 statute, and shall be expended at the level of service authorized by the General Assembly.  
7 If the receipts, other than gifts and grants that are unanticipated and are for a specific  
8 purpose only, collected in a fiscal year by an institution, department, or agency exceed  
9 the receipts certified for it in General Fund Codes or Highway Fund Codes, then the  
10 Director of the Budget shall decrease the amount he allots to that institution, department,  
11 or agency from appropriations from that Fund by the amount of the excess, unless the  
12 Director of the Budget finds that the appropriations from the Fund are necessary to  
13 maintain the function that generated the receipts at the level anticipated in the certified  
14 Budget Codes for that Fund. Funds that become available from overrealized receipts in  
15 General Fund Codes and Highway Fund Codes, other than gifts and grants that are  
16 unanticipated and are for a specific purpose only, shall not be used for new permanent  
17 employee positions or to raise the salary of existing employees except:

18 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4, or 143-27;  
19 or

20 (2) If the Director of the Budget finds that the new permanent employee  
21 positions are necessary to maintain the function that generated the  
22 receipts at the level anticipated in the certified budget codes for that  
23 Fund. The Director of the Budget shall notify the President Pro  
24 Tempore of the Senate, the Speaker of the House of Representatives, the  
25 chairmen of the appropriations committees of the Senate and the House  
26 of Representatives, and the Fiscal Research Division of the Legislative  
27 Services Office that he intends to make such a finding at least 10 days  
28 before he makes the finding. The notification shall set out the reason  
29 the positions are necessary to maintain the function.

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

35 The Director of the Budget shall develop necessary budget controls,  
36 regulations, and systems to ensure that these funds and other State funds subject to the  
37 Executive Budget Act, are not spent in a manner which would cause a deficit in  
38 expenditures.

39 Pursuant to G.S. 143-34.2, State departments, agencies, institutions, boards, or  
40 commissions may make application for, receive, or disburse any form of non-State aid.  
41 All non-State monies received shall be deposited with the State Treasurer unless  
42 otherwise provided by State law. These funds shall be expended in accordance with the

1 terms and conditions of the fund award that are not contrary to the laws of North  
2 Carolina.

3  
4 Requested by: Senators Odom, Plyler, Perdue

5 **INSURANCE AND FIDELITY BONDS**

6 Section 7.1. All insurance and all official fidelity and surety bonds authorized  
7 for the several departments, institutions, and agencies shall be effected and placed by the  
8 Insurance Department, and the cost of placement shall be paid by the affected  
9 department, institution, or agency with the approval of the Insurance Commissioner.

10  
11 Requested by: Senators Odom, Plyler, Perdue

12 **CONTINGENCY AND EMERGENCY FUND ALLOCATION**

13 Section 7.2. Of the funds appropriated in this act to the Contingency and  
14 Emergency Fund, the sum of nine hundred thousand dollars (\$900,000) for the 1997-98  
15 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 1998-99  
16 fiscal year shall be designated for emergency allocations, which are for the purposes  
17 outlined in G.S. 143-23(a1)(3), (4), and (5). Two hundred twenty-five thousand dollars  
18 (\$225,000) for the 1997-98 fiscal year and two hundred twenty-five thousand dollars  
19 (\$225,000) for the 1998-99 fiscal year shall be designated for other allocations from the  
20 Contingency and Emergency Fund.

21  
22 Requested by: Senators Odom, Plyler, Perdue

23 **AUTHORIZED TRANSFERS**

24 Section 7.3. The Director of the Budget may transfer to General Fund budget  
25 codes from the General Fund Salary Adjustment Reserves appropriation, and may  
26 transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment  
27 Reserve appropriation amounts required to support approved salary adjustments made  
28 necessary by difficulties in recruiting and holding qualified employees in State  
29 government. The funds may be transferred only when salary reserve funds in individual  
30 operating budgets are not available.

31 Any remaining appropriations for legislative salary increases not required for  
32 that purpose may be used to supplement the Salary Adjustment Fund. These funds shall  
33 first be used to provide reclassifications of those positions already approved by the Office  
34 of State Personnel.

35  
36 Requested by: Senators Odom, Plyler, Perdue

37 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

38 Section 7.4. All funds appropriated by this act into reserves may be expended  
39 only for the purposes for which the reserves were established.

40  
41 Requested by: Senators Odom, Plyler, Perdue

42 **STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY**



1 Section 7.5. Each private, nonprofit entity eligible to receive State funds,  
 2 either by General Assembly appropriation, or by grant, loan, or other allocation from a  
 3 State agency, before funds may be disbursed to the entity, shall file with the disbursing  
 4 agency a notarized copy of that entity's policy addressing conflicts of interest that may  
 5 arise involving the entity's management employees and the members of its board of  
 6 directors or other governing body. The policy shall address situations where any of these  
 7 individuals may directly or indirectly benefit, except as the entity's employees or  
 8 members of the board or other governing body, from the entity's disbursing of State  
 9 funds, and shall include actions to be taken by the entity or the individual, or both, to  
 10 avoid conflicts of interest and the appearance of impropriety.

11  
 12 Requested by: Senators Plyler, Perdue, Odom

### 13 **BUDGETING OF PILOT PROGRAMS**

14 Section 7.6. (a) Any program designated by the General Assembly as experimental,  
 15 model, or pilot shall be shown as a separate budget item and shall be considered as an  
 16 expansion item until a succeeding General Assembly reapproves it.

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

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

22  
 23 Requested by: Senators Plyler, Perdue, Odom

### 24 **AUTHORIZATION OF PRIVATE LICENSE TAGS ON STATE-OWNED 25 MOTOR VEHICLE**

26 Section 7.7. (a) Pursuant to the provisions of G.S. 14-250, for the 1997-99 fiscal  
 27 biennium, the General Assembly authorizes the use of private license tags on State-  
 28 owned motor vehicles only for the State Highway Patrol and for the following:

29 <u>Department</u>	30 <u>Exemption Category</u>	31 <u>Number</u>
32 Motor Vehicles	33 License and Theft	34 97
35 Justice	36 SBI Agents	37 277
38 Correction	39 Probation/Parole Surveillance 40 Officers (intensive 41 probation)	42 25
43 Crime Control and 44 Public Safety	45 ALE Officers	46 92
47 Revenue		48 4
49 Capitol Area 50 Police		51 2

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

- 54 (1) 54 among Agent I officers;
- 55 (2) 20 among Agent II officers;

- 1           (3)    1 to the Deputy Director;  
2           (4)    12 to the District Offices/Extra Vehicles; and  
3           (5)    5 to the Director, to be distributed at the Director's discretion.  
4       (c)    Except as provided in this section, all State-owned motor vehicles shall bear  
5 permanent registration plates issued under G.S. 20-84.  
6

7 Requested by: Senators Plyler, Perdue, Odom

## 8 MODIFICATIONS TO THE EXECUTIVE BUDGET ACT

9       Section 7.8. (a) G.S. 143-16.3 reads as rewritten:

10 **"§ 143-16.3. No expenditures for purposes for which the General Assembly has**  
11 **considered but not enacted an appropriation.**

12       Notwithstanding any other provision of law, no funds from any source, except for  
13 gifts, grants, special funds, and funds allocated from the Contingency and Emergency  
14 Fund in accordance with G.S. 143-12(b), may be expended for any new or expanded  
15 purpose, position, or other expenditure for which the General Assembly has considered  
16 but not enacted an appropriation of funds for the current fiscal ~~period~~-~~period~~; provided,  
17 however, that in the event the Director of the Budget declares that it is necessary to  
18 deviate from this provision, he may do so after prior consultation with the Joint  
19 Legislative Commission on Governmental Operations. For the purpose of this section,  
20 the General Assembly has considered a purpose, position, or other expenditure when that  
21 purpose is included in a bill, amendment, or petition and when any committee of the  
22 Senate or the House of Representatives deliberates on that purpose."

23       (b) G.S. 143-23 reads as rewritten:

24 **"§ 143-23. All maintenance funds for itemized purposes; transfers between objects**  
25 **or line items.**

26       (a) All appropriations now or hereafter made for the maintenance of the various  
27 departments, institutions and other spending agencies of the State, are for the (i) purposes  
28 or programs and (ii) objects or line items enumerated in the itemized requirements of  
29 such departments, institutions and other spending agencies submitted to the General  
30 Assembly by the Director of the Budget and the Advisory Budget Commission, as  
31 amended by the General Assembly. The function of the Advisory Budget Commission  
32 under this subsection applies only if the Director of the Budget consults with the  
33 Commission in preparation of the budget.

34       (a1) Notwithstanding the provisions of subsection (a) of this section, a department,  
35 institution, or other spending agency may, with approval of the Director of the Budget,  
36 spend more than was appropriated for:

- 37       (1) An object or line item within a purpose or program so long as the total  
38 amount expended for the purpose or program is no more than was  
39 appropriated from all sources for the purpose or program for the fiscal  
40 period;  
41       (2) A purpose or program, without consultation with the Joint Legislative  
42 Commission on Governmental Operations, if the overexpenditure of the  
43 purpose or program is:

- 1 a. Required by a court, Industrial Commission, or administrative  
2 hearing officer's order;  
3 b. Required to respond to an unanticipated disaster such as a fire,  
4 hurricane, or tornado; or  
5 c. Required to call out the National Guard.

6 The Director of the Budget shall report on a quarterly basis to the Joint  
7 Legislative Commission on Governmental Operations on any  
8 overexpenditures under this subdivision; or

- 9 (3) A purpose or program, after consultation with the Joint Legislative  
10 Commission on Governmental Operations in accordance with G.S. 120-  
11 76(8), and only if: (i) ~~the overexpenditure is required to continue the~~  
12 ~~purpose or programs due to complications or changes in circumstances~~  
13 ~~that could not have been foreseen when the budget for the fiscal period~~  
14 ~~was enacted and (ii) the scope of the purpose or program is not~~  
15 ~~increased. The consultation is required when overexpenditures of a~~  
16 ~~purpose or program for a fiscal year under this subdivision shall be~~  
17 ~~limited to the lesser of five hundred thousand dollars (\$500,000) or ten~~  
18 ~~percent (10%) of the amount appropriated from all sources for the~~  
19 ~~purpose or program, unless such overexpenditures are necessary to~~  
20 ~~provide matching funds for federal entitlement programs. as follows:~~

- 21 a. For a purpose or program with a certified budget of up to five  
22 million dollars (\$5,000,000), consultation is required when the  
23 overexpenditure exceeds ten percent (10%) of the certified  
24 budget;  
25 b. For a purpose or program with a certified budget of from five  
26 million dollars (\$5,000,000) up to twenty million dollars  
27 (\$20,000,000), consultation is required when the overexpenditure  
28 exceeds five hundred thousand dollars (\$500,000) or seven and  
29 one-half percent (7.5%) of the certified budget, whichever is  
30 greater;  
31 c. For a purpose or program with a certified budget of twenty  
32 million dollars (\$20,000,000) or more, consultation is required  
33 when the overexpenditure exceeds one million five hundred  
34 thousand dollars (\$1,500,000) or five percent (5%) of the  
35 certified budget, whichever is greater;  
36 d. For a purpose or program supported by federal funds or when  
37 expenditures are required for the reasons set out in subdivision  
38 (2) of this subsection, no consultation is required.

39 (a2) Funds appropriated for salaries and wages are also subject to the limitation that  
40 they may only be used for:

- 41 (1) Salaries and wages or for premium pay, overtime pay, longevity,  
42 unemployment compensation, workers' compensation, temporary  
43 wages, moving expenses of employees, payment of accumulated annual

1 leave, certain awards to employees, tort claims, and employer's social  
2 security, employer's retirement, and—hospitalization payments;  
3 payments, and food, clothing, and medical care related to the care and  
4 custody of individuals in State-supported facilities.

5 (2) Contracted personal services if (i) the contract is for temporary services  
6 or special project services, (ii) the term of the contract does not extend  
7 beyond the fiscal year, (iii) the contract does not impose obligations on  
8 the State after the end of the fiscal year; and (iv) the total of all  
9 overexpenditures for contracted personal services approved in a  
10 program for a fiscal year does not exceed the greater of five hundred  
11 thousand dollars (\$500,000) or ten percent (10%) of the projected lapsed  
12 salary funds in the program for the fiscal year; and

13 (3) Uses for which overexpenditures are permitted by subdivision (2) of  
14 subsection (a1) of this section but the Director of the Budget shall  
15 include such use and the reason for it in his quarterly report to the Joint  
16 Legislative Commission on Governmental Operations.

17 Lapsed salary funds ~~that become available from vacant positions are also subject to~~  
18 ~~the limitation that they may not~~ shall not be used for new permanent employee positions  
19 or to raise the salary of existing employees.

20 (a3), (a4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 7.4(f).

21 (b) Repealed by Session Laws 1985, c. 290, s. 8.

22 (c) Transfers or changes as between objects or line items in the budget of the  
23 Senate may be made by the President Pro Tempore of the Senate.

24 (d) Transfers or changes as between objects or line items in the budget of the  
25 House of Representatives may be made by the Speaker of the House of Representatives.

26 (e) Transfers or changes as between objects or line items in the budget of the  
27 General Assembly other than of the Senate and House of Representatives may be made  
28 jointly by the President Pro Tempore of the Senate and the Speaker of the House of  
29 Representatives.

30 (e1) Transfers or changes as between objects or line items in the budget of the  
31 Office of the Governor may be made by the Governor.

32 (e2) Transfers or changes as between objects or line items in the Office of the  
33 Lieutenant Governor may be made by the Lieutenant Governor.

34 (f) As used in this section:

35 (1) 'Object or line item' means a budgeted expenditure or receipt in the  
36 budget enacted by the General Assembly that is designated by (i) a  
37 thirteen-digit code in the 1000-object code series or (ii) an eleven-digit  
38 code in all other object code series, in accordance with the Budget Code  
39 Structure and the State Accounting System Uniform Chart of Accounts  
40 set out in the Administrative Policies and Procedures Manual of the  
41 Office of the State Controller.

42 (2) 'Purpose or program' means a group of objects or line items for support  
43 of a specific activity outlined in the budget adopted by the General

1 Assembly that is designated by a nine-digit fund code in accordance  
2 with the Budget Code Structure and the State Accounting System  
3 Uniform Chart of Accounts set out in the Administrative Policies and  
4 Procedures Manual of the Office of the State Controller."

5 (c) G.S. 143-27 reads as rewritten:

6 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**  
7 **are in addition to receipts by them.**

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

29 The Office of State Budget and Management shall report to the Joint Legislative  
30 Commission on Governmental Operations and to the Fiscal Research Division of the  
31 Legislative Services Office within 30 days after the end of each quarter on expenditures  
32 of receipts in excess of the amounts certified in General Fund Codes, Highway Fund  
33 Codes, or ~~budgeted Special Wildlife~~ Fund Codes, that did not result in a corresponding  
34 reduced allotment from appropriations from that Fund."  
35

## 36 **PART VIII. PUBLIC SCHOOLS**

### 37 38 **SUBPART A. GENERAL PROVISIONS**

39  
40 Requested by: Senators Winner, Lee

#### 41 **CAREER DEVELOPMENT**

42 Section 8.1. (a) The State Board of Education shall use funds available for the 1997-  
43 98 and 1998-99 fiscal years to ensure that individual employees do not receive less on a

1 monthly basis in salary and State-funded bonuses during the 1997-98 fiscal year or  
2 during the 1998-99 fiscal year than they received on a monthly basis during the 1994-95  
3 fiscal year, so long as the employees qualify for bonuses under the local differentiated  
4 pay plan. The State Board of Education may also use funds appropriated to State Aid to  
5 Local School Administrative Units for the 1997-98 and 1998-99 fiscal years as is  
6 necessary to hold individual employees harmless as provided in this subsection.

7 (b) Funds appropriated for local school administrative units receiving career  
8 development funds for the 1996-97 fiscal year that did not revert on June 30, 1997, shall  
9 not be used for expenses other than the costs of holding individual employees harmless as  
10 provided in subsection (a) of this section.

11  
12 Requested by: Senators Winner, Lee

### 13 SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

14 Section 8.2. (a) Funds for Supplemental Funding. – The General Assembly finds that  
15 it is appropriate to provide supplemental funds in low-wealth counties to allow those  
16 counties to enhance the instructional program and student achievement; therefore, funds  
17 are appropriated to Aid to Local School Administrative Units for the 1997-98 fiscal year  
18 and the 1998-99 fiscal year to be used for supplemental funds for schools.

19 (b) Use of Funds for Supplemental Funding. – Local school administrative units  
20 shall use funds received pursuant to this section only to provide instructional positions,  
21 instructional support positions, teacher assistant positions, clerical positions, instructional  
22 supplies and equipment, staff development, and textbooks; provided, however, local  
23 school administrative units may use these funds for salary supplements for instructional  
24 personnel and instructional support personnel.

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

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

29 (2) "Anticipated total county revenue availability" means the sum of the:

- 30 a. Anticipated county property tax revenue availability,
- 31 b. Local sales and use taxes received by the county that are levied  
32 under Chapter 1096 of the 1967 Session Laws or under  
33 Subchapter VIII of Chapter 105 of the General Statutes,
- 34 c. Food stamp exemption reimbursement received by the county  
35 under G.S. 105-164.44C,
- 36 d. Homestead exemption reimbursement received by the county  
37 under G.S. 105-277.1A,
- 38 e. Inventory tax reimbursement received by the county under G.S.  
39 105-275.1 and G.S. 105-277A,
- 40 f. Intangibles tax distribution and reimbursement received by the  
41 county under G.S. 105-213 and G.S. 105-213.1, and
- 42 g. Fines and forfeitures deposited in the county school fund for the  
43 most recent year for which data are available.

- 1 (3) "Anticipated total county revenue availability per student" means the  
2 anticipated total county revenue availability for the county divided by  
3 the average daily membership of the county.
- 4 (4) "Anticipated State average revenue availability per student" means the  
5 sum of all anticipated total county revenue availability divided by the  
6 average daily membership for the State.
- 7 (5) "Average daily membership" means average daily membership as  
8 defined in the North Carolina Public Schools Allotment Policy Manual,  
9 adopted by the State Board of Education. If a county contains only part  
10 of a local school administrative unit, the average daily membership of  
11 that county includes all students who reside within the county and  
12 attend that local school administrative unit.
- 13 (6) " County adjusted property tax base" shall be computed as follows:  
14 a. Subtract the present-use value of agricultural land, horticultural  
15 land, and forestland in the county, as defined in G.S. 105-277.2,  
16 from the total assessed real property valuation of the county,  
17 b. Adjust the resulting amount by multiplying by a weighted  
18 average of the three most recent annual sales assessment ratio  
19 studies,  
20 c. Add to the resulting amount the:  
21 1. Present-use value of agricultural land, horticultural land,  
22 and forestland, as defined in G.S. 105-277.2,  
23 2. Value of property of public service companies,  
24 determined in accordance with Article 23 of Chapter 105  
25 of the General Statutes, and  
26 3. Personal property value for the county.
- 27 (7) " County adjusted property tax base per square mile" means the county  
28 adjusted property tax base divided by the number of square miles of  
29 land area in the county.
- 30 (8) " County wealth as a percentage of State average wealth" shall be  
31 computed as follows:  
32 a. Compute the percentage that the county per capita income is of  
33 the State per capita income and weight the resulting percentage  
34 by a factor of five-tenths,  
35 b. Compute the percentage that the anticipated total county revenue  
36 availability per student is of the anticipated State average revenue  
37 availability per student and weight the resulting percentage by a  
38 factor of four-tenths,  
39 c. Compute the percentage that the county adjusted property tax  
40 base per square mile is of the State adjusted property tax base per  
41 square mile and weight the resulting percentage by a factor of  
42 one-tenth,

- 1 d. Add the three weighted percentages to derive the county wealth  
2 as a percentage of the State average wealth.
- 3 (9) " Effective county tax rate" means the actual county tax rate multiplied  
4 by a weighted average of the three most recent annual sales assessment  
5 ratio studies.
- 6 (10) " Effective State average tax rate" means the average of effective county  
7 tax rates for all counties.
- 8 (10a) " Local current expense funds" means the most recent county current  
9 expense appropriations to public schools, as reported by local boards of  
10 education in the audit report filed with the Secretary of the Local  
11 Government Commission pursuant to G.S. 115C-447.
- 12 (11) " Per capita income" means the average for the most recent three years  
13 for which data are available of the per capita income according to the  
14 most recent report of the United States Department of Commerce,  
15 Bureau of Economic Analysis, including any reported modifications for  
16 prior years as outlined in the most recent report.
- 17 (12) " Sales assessment ratio studies" means sales assessment ratio studies  
18 performed by the Department of Revenue under G.S. 105-289(h).
- 19 (13) " State average current expense appropriations per student" means the  
20 most recent State total of county current expense appropriations to  
21 public schools, as reported by local boards of education in the audit  
22 report filed with the Secretary of the Local Government Commission  
23 pursuant to G.S. 115C-447.
- 24 (14) " State average adjusted property tax base per square mile" means the  
25 sum of the county adjusted property tax bases for all counties divided by  
26 the number of square miles of land area in the State.
- 27 (14a) " Supplant" means to decrease local per student current expense  
28 appropriations from one fiscal year to the next fiscal year.
- 29 (15) " Weighted average of the three most recent annual sales assessment  
30 ratio studies" means the weighted average of the three most recent  
31 annual sales assessment ratio studies in the most recent years for which  
32 county current expense appropriations and adjusted property tax  
33 valuations are available. If real property in a county has been revalued  
34 one year prior to the most recent sales assessment ratio study, a  
35 weighted average of the two most recent sales assessment ratios shall be  
36 used. If property has been revalued the year of the most recent sales  
37 assessment ratio study, the sales assessment ratio for the year of  
38 revaluation shall be used.
- 39 (d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the  
40 State Board of Education shall allocate these funds to local school administrative units  
41 located in whole or in part in counties in which the county wealth as a percentage of the  
42 State average wealth is less than one hundred percent (100%).



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

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

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

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

23 (g) Minimum Effort Required. – Counties that had effective tax rates in the  
24 1994-95 fiscal year that were above the State average effective tax rate but that had  
25 effective rates below the State average in the 1995-96 fiscal year or thereafter shall  
26 receive reduced funding under this section. This reduction in funding shall be determined  
27 by subtracting the amount that the county would have received pursuant to Section  
28 17.1(g)(ii) of Chapter 507 of the 1995 Session Laws from the amount that the county  
29 would have received if qualified for full funding and multiplying the difference by ten  
30 percent (10%). This method of calculating reduced funding shall apply one time only.

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

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

40 (h) Nonsupplant requirement. – A county in which a local school  
41 administrative unit receives funds under this section shall use the funds to supplement  
42 local current expense funds and shall not supplant local current expense funds. For the  
43 1997-99 fiscal biennium, the State Board of Education shall not allocate funds under this

1 section to a county found to have used these funds to supplant local per student current  
2 expense funds. The State Board of Education shall make a finding that a county has used  
3 these funds to supplant local current expense funds in the prior year, or the year for which  
4 the most recent data are available, if:

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

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

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

14 (i) Reports. – The State Board of Education shall report to the Joint  
15 Legislative Education Oversight Committee prior to May 1, 1998, on its analysis of  
16 whether counties supplanted funds.

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

26  
27 Requested by: Senators Winner, Lee

### 28 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

29 Section 8.3. (a) **Funds for small school systems.** – Except as provided in subsection  
30 (b) of this section, the State Board of Education shall allocate funds appropriated for  
31 small school system supplemental funding (i) to each county school administrative unit  
32 with an average daily membership of less than 3,150 students and (ii) to each county  
33 school administrative unit with an average daily membership of from 3,150 to 4,000  
34 students if the county in which the local school administrative unit is located has a county  
35 adjusted property tax base per student that is below the State adjusted property tax base  
36 per student and if the total average daily membership of all local school administrative  
37 units located within the county is from 3,150 to 4,000 students. The allocation formula  
38 shall:

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

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

1 counties in which the average daily membership per square mile is four  
2 or less.

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

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

7 (5) Provide a base for the consolidated funds allotment of at least \$235,000,  
8 excluding textbooks.

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

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

18 (b) **Nonsupplant requirement.** – A county in which a local school administrative  
19 unit receives funds under this section shall use the funds to supplement local current  
20 expense funds and shall not supplant local current expense funds. For the 1997-99 fiscal  
21 biennium, the State Board of Education shall not allocate funds under this section to a  
22 county found to have used these funds to supplant local per student current expense  
23 funds. The State Board of Education shall make a finding that a county has used these  
24 funds to supplant local current expense funds in the prior year, or the year for which the  
25 most recent data are available, if:

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

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

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

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

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

- 1 (1) "Average daily membership" means within two percent (2%) of the  
2 average daily membership as defined in the North Carolina Public  
3 Schools Allotment Policy Manual, adopted by the State Board of  
4 Education.
- 5 (2) " County adjusted property tax base per student" means the total  
6 assessed property valuation for each county, adjusted using a weighted  
7 average of the three most recent annual sales assessment ratio studies,  
8 divided by the total number of students in average daily membership  
9 who reside within the county.
- 10 (2a) " Local current expense funds" means the most recent county current  
11 expense appropriations to public schools, as reported by local boards of  
12 education in the audit report filed with the Secretary of the Local  
13 Government Commission pursuant to G.S. 115C-447.
- 14 (3) " Sales assessment ratio studies" means sales assessment ratio studies  
15 performed by the Department of Revenue under G.S. 105-289(h).
- 16 (4) " State adjusted property tax base per student" means the sum of all  
17 county adjusted property tax bases divided by the total number of  
18 students in average daily membership who reside within the State.
- 19 (4a) " Supplant" means to decrease local per student current expense  
20 appropriations from one fiscal year to the next fiscal year.
- 21 (5) " Weighted average of the three most recent annual sales assessment  
22 ratio studies" means the weighted average of the three most recent  
23 annual sales assessment ratio studies in the most recent years for which  
24 county current expense appropriations and adjusted property tax  
25 valuations are available. If real property in a county has been revalued  
26 one year prior to the most recent sales assessment ratio study, a  
27 weighted average of the two most recent sales assessment ratios shall be  
28 used. If property has been revalued the year of the most recent sales  
29 assessment ratio study, the sales assessment ratio for the year of  
30 revaluation shall be used.
- 31 (e) **Reports.** – The State Board of Education shall report to the Joint  
32 Legislative Education Oversight Committee prior to May 1, 1998, on the results of its  
33 analysis of whether counties supplanted funds.

34  
35 Requested by: Senators Winner, Lee

### 36 LITIGATION RESERVE

37 Section 8.4. (a) Funds in the State Board of Education's Litigation Reserve that  
38 are not expended or encumbered on June 30, 1997, shall not revert on July 1, 1997, but  
39 shall remain available for expenditure until June 30, 1999.

40 (b) The State Board of Education may expend up to five hundred thousand  
41 dollars (\$500,000) for the 1997-98 fiscal year from unexpended funds for certified  
42 employees' salaries to pay expenses related to pending litigation.

43 (c) Subsection (a) of this section becomes effective June 30, 1997.

1  
2 Requested by: Senators Winner, Lee

3 **EXCEPTIONAL CHILDREN FUNDS**

4 Section 8.5. The funds appropriated for exceptional children in this act shall be  
5 allocated as follows:

6 (1) Each local school administrative unit shall receive for academically  
7 gifted children the sum of seven hundred ten dollars and sixty-one cents  
8 (\$710.61) per child for four percent (4.0%) of the 1997-98 allocated  
9 average daily membership in the local school administrative unit,  
10 regardless of the number of children identified as academically gifted in  
11 the local school administrative unit. The total number of children for  
12 which funds shall be allocated pursuant to this subdivision is 49,045 for  
13 the 1997-98 school year.

14 (2) Each local school administrative unit shall receive for exceptional  
15 children other than academically gifted children the sum of two  
16 thousand one hundred thirty-one dollars and eighty-seven cents  
17 (\$2,131.87) per child for the lesser of (i) all children who are identified  
18 as exceptional children other than academically gifted children or (ii)  
19 twelve and five-tenths percent (12.5%) of the 1997-98 allocated average  
20 daily membership in the local school administrative unit. The maximum  
21 number of children for which funds shall be allocated pursuant to this  
22 subdivision is 142,572 for the 1997-98 school year.

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

26  
27 Requested by: Senators Winner, Lee

28 **MINIMUM VACATION LEAVE FOR BUS DRIVERS**

29 Section 8.6. Notwithstanding any other provision of law, all regular school bus  
30 drivers, who have been employed for at least one academic year and who are not entitled  
31 to more than one day of paid vacation leave, are entitled to one day of paid vacation leave  
32 in each subsequent school year. An employee who is terminated or resigns before taking  
33 the leave day is not entitled to compensation for the day.

34  
35 Requested by: Senators Jenkins, Winner, Lee

36 **TRANSFER OF FUNDS FOR CHILDREN WITH SPECIAL NEEDS TO PROGRAMS  
37 FOR ACADEMICALLY OR GIFTED STUDENTS AUTHORIZED.**

38 Section 8.7. G.S. 115C-105.25(b) reads as rewritten:

39 "(b) Subject to the following limitations, local boards of education may transfer and  
40 may approve transfers of funds between funding allotment categories:

41 (1) In accordance with a school improvement plan accepted under G.S.  
42 115C-105.27, State funds allocated for teacher assistants may be  
43 transferred only for personnel (i) to serve students only in kindergarten

1 through third grade, or (ii) to serve students primarily in kindergarten  
2 through third grade when the personnel are assigned to an elementary  
3 school to serve the whole school. Funds allocated for teacher assistants  
4 may be transferred to reduce class size or to reduce the student-teacher  
5 ratio in kindergarten through third grade so long as the affected teacher  
6 assistant positions are not filled when the plan is amended or approved  
7 by the building-level staff entitled to vote on the plan or the affected  
8 teacher assistant positions are not expected to be filled on the date the  
9 plan is to be implemented. Any State funds appropriated for teacher  
10 assistants that were converted to certificated teachers before July 1,  
11 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session  
12 Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may  
13 continue to be used for certificated teachers.

14 (2) In accordance with a school improvement plan accepted under G.S.  
15 115C-105.27, (i) State funds allocated for classroom  
16 materials/instructional supplies/equipment may be transferred only for  
17 the purchase of textbooks; (ii) State funds allocated for textbooks may  
18 be transferred only for the purchase of instructional supplies,  
19 instructional equipment, or other classroom materials; and (iii) State  
20 funds allocated for noninstructional support personnel may be  
21 transferred only for teacher positions.

22 (3) No funds shall be transferred into the central office allotment category.

23 (4) Funds allocated for ~~children with special needs and funds allocated for~~  
24 ~~driver's education~~ shall not be transferred.

25 (4a) Funds allocated for children with special needs may be transferred only  
26 for academically or intellectually gifted students so long as the amount  
27 transferred is no greater than the amount of non-State funds used for  
28 children with special needs, other than federal funds appropriated for  
29 children with special needs. No local school administrative unit shall  
30 transfer funds allocated for children with special needs unless the  
31 amount the school unit budgets for children with special needs is at least  
32 equal to State dollars and federal dollars for handicapped children.

33 (5) Funds allocated for classroom teachers may be transferred only for  
34 teachers of exceptional children, for teachers of at-risk students, and for  
35 authorized purposes under the textbooks allotment category and the  
36 classroom materials/instructional supplies/equipment allotment  
37 category.

38 (6) Funds allocated for vocational education may be transferred only in  
39 accordance with any rules that the State Board of Education considers  
40 appropriate to ensure compliance with federal regulations.

41 (7) Funds allocated for career development shall be used in accordance with  
42 Section 17.3 of Chapter 324 of the 1995 Session Laws.

- 1 (8) Funds allocated for academically or intellectually gifted students may be  
2 used only (i) for academically or intellectually gifted students; (ii) to  
3 implement the plan developed under G.S. 115C-150.7; or (iii) in  
4 accordance with an accepted school improvement plan, for any purpose  
5 so long as that school demonstrates it is providing appropriate services  
6 to academically or intellectually gifted students assigned to that school  
7 in accordance with the local plan developed under G.S. 115C-150.7."  
8

9 Requested by: Senators Winner, Lee

10 **DELETE REPORT ON GUARANTEED ENERGY SAVINGS CONTRACTS**

11 Section 8.8. Section 9 of Chapter 775 of the 1993 Session Laws is repealed.  
12

13 Requested by: Senators Winner, Lee

14 **SCHOOL PAY DATE FLEXIBILITY PILOT PROGRAM**

15 Section 8.9. The State Board of Education may continue a pilot program to  
16 grant no more than four local boards of education additional flexibility in setting the pay  
17 dates for their 10-month employees. Notwithstanding the provisions of G.S. 115C-302(a)  
18 and G.S. 115C-316(a), local school administrative units participating in the pilot may pay  
19 10-month employees for a full month of employment when days employed are less than a  
20 full month at the beginning or the end of the teachers' contracts. No local school  
21 administrative unit shall be required to participate in the pilot. A local board  
22 participating in the pilot shall bear all of the cost of recouping funds prepaid for work  
23 never done and the cost of these funds that cannot be recouped.

24 The State Board of Education shall report to the Joint Legislative Education  
25 Oversight Committee on the pilot program prior to September 15, 1998.  
26

27 Requested by: Senators Winner, Lee

28 **SCHOOL RESOURCE OFFICERS IN MIDDLE SCHOOLS**

29 Section 8.10. (a) Local boards of education may use funds from the Alternative  
30 Schools/At-Risk Student allotment to form partnerships with the Communities In Schools  
31 Program or to contract with the Communities In Schools Program for services.

32 (b) Local boards of education shall not use these State funds in the Alternative  
33 Schools/At-Risk Student allotment to supplant local funds.

34 (c) The State Board of Education may use up to two hundred thousand dollars  
35 (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment to  
36 implement G.S. 115C-12(24).  
37

38 Requested by: Senators Winner, Lee, Foxx

39 **ADVANCED PLACEMENT TESTS**

40 Section 8.11. (a) Advanced Placement tests are taken by many high school  
41 students who are seeking college credit for coursework completed in high school. The  
42 Board of Governors of The University of North Carolina is encouraged to develop a

1 standardized system of credit for the Advanced Placement test scores to ensure that  
2 college credit granted for Advanced Placement courses is equitable and predictable.

3 (b) The Board of Governors of The University of North Carolina shall  
4 encourage the University system to assist the public school systems of the State to  
5 provide education for teachers who are instructors of Advanced Placement courses.

6 (c) Notwithstanding any other provision of law, the State Board of Community  
7 Colleges shall allow a college to earn regular budget FTEs for a college level course  
8 taught to high school students even though the course instructor is a local high school  
9 teacher under contract, provided the following criteria are met:

10 (1) The course does not duplicate or supplant the Advanced Placement  
11 courses or the other college level course offerings of the high school.

12 (2) The contractual responsibilities of the high school teacher employed as  
13 an instructor for the course do not supplant the regular classroom and  
14 teaching responsibilities of the teacher.

15 (3) The State Board of Community Colleges is satisfied that the substance,  
16 quality, and level at which the course is taught merits it being  
17 considered a college level course.

18 (d) The State Board of Education and the State Board of Community Colleges  
19 shall report to the Joint Legislative Education Oversight Committee by March 1, 1998,  
20 regarding the cooperative effort being made to encourage high school students to  
21 complete college general education courses through the community college system. The  
22 report shall include information about the curricula designed to encourage this effort, the  
23 number of students enrolled in college courses, and the fiscal impact of these efforts.

24  
25 Requested by: Senators Winner, Lee

26 **DATA ON TEACHER ASSISTANTS' YEARS OF EXPERIENCE,**  
27 **CREDENTIALS, AND PLACEMENT ON LOCALLY ADOPTED SALARY**  
28 **SCHEDULES**

29 Section 8.12. The State Board of Education shall collect data on teacher  
30 assistants' years of experience in the public schools and in State and local government  
31 and the degrees that they hold. The State Board shall report the results of its study to the  
32 Joint Legislative Education Oversight Committee prior to February 15, 1998.

33 The State Board of Education shall also collect data on locally adopted salary  
34 schedules for teacher assistants and the distribution of teacher assistants on the locally  
35 adopted schedules. The State Board shall report the results of its study to the Joint  
36 Legislative Education Oversight Committee prior to February 15, 1998.

37  
38 Requested by: Senators Winner, Lee

39 **CLASS-SIZE COMPUTATION FOR K-2**

40 Section 8.13. Teacher positions provided by the 1993 and 1995 General  
41 Assemblies to reduce class size in kindergarten, first grade, and second grade shall be  
42 used by local school administrative units (i) to provide class size in kindergarten, first  
43 grade, and second grade to be 23 or fewer students or (ii) to hire reading teachers within



1 kindergarten through third grade or otherwise reduce the student-teacher ratio within  
2 kindergarten through third grade.

3 For the purpose of calculating the maximum allowable class size for  
4 kindergarten, first grade, and second grade, the ratio of teachers to students shall be 1 to  
5 26.

6  
7 Requested by: Senators Winner, Lee

8 **ABC'S PERFORMANCE RECOGNITION FOR PERSONNEL SERVING**  
9 **KINDERGARTEN THROUGH TWELFTH GRADE ONLY**

10 Section 8.14. G.S. 115C-105.36 reads as rewritten:

11 "**§ 115C-105.36. Performance recognition.**

12 (a) The personnel serving students in kindergarten through twelfth grade in  
13 schools that achieve a level of expected growth greater than one hundred percent (100%)  
14 at a level to be determined by the State Board of Education are eligible for financial  
15 awards in amounts set by the State Board. Schools and personnel shall not be required to  
16 apply for these awards. For the purpose of this section, 'personnel' includes the principal,  
17 assistant principal, instructional personnel, instructional support personnel, and teacher  
18 assistants assigned to that school.

19 (b) The State Board shall establish a procedure to allocate the funds for these  
20 awards to the local school administrative units in which the eligible schools are located.  
21 Funds shall become available for expenditure July 1 of each fiscal year. Funds shall  
22 remain available until November 30 of the subsequent fiscal year for expenditure for:

23 (1) Awards to the ~~personnel~~; personnel serving students in kindergarten  
24 through grade 12; or

25 (2) The purposes authorized in a plan that has been:

26 a. Developed and voted on by the personnel in the same manner  
27 that a school improvement plan is approved under G.S. 115C-  
28 105.27;

29 b. Approved by a majority of the personnel who vote on the plan;  
30 and

31 c. Submitted to and approved by the local board of education.

32 The local board shall approve this plan unless the plan involves expenditures of funds  
33 that are not for a public purpose or that are otherwise unlawful."

34

35 Requested by: Senators Winner, Lee

36 **SCHOOL LAW REVISION SUBCOMMITTEE EXTENDED**

37 Section 8.15. (a) The cochairs of the Joint Legislative Education Oversight  
38 Committee may appoint a subcommittee to revise the public school laws.

39 The subcommittee shall consist of equal numbers of members appointed by the  
40 Senate chair and the House chair. Either chair may appoint to the subcommittee  
41 members, including public members, who are not also members of the Committee.

1 Members of the subcommittee who are not members of the Committee may  
2 participate fully in all subcommittee business, including all deliberations and votes;  
3 however, these members are not members of the Committee for any other purpose.

4 (b) The subcommittee shall:

5 (1) Conduct a comprehensive review of the public school laws;

6 (2) Identify laws that are outdated, vague, unnecessary, or otherwise in need  
7 of revision; and

8 (3) Revise the public laws so they are consistent with the North Carolina  
9 Constitution and with the goals of the General Assembly and the State  
10 Board of Education in order to improve student performance, increase  
11 local flexibility and control, and promote economy and efficiency.  
12

13 Requested by: Senators Winner, Lee

#### 14 **AVID PROGRAM**

15 Section 8.16. Of the funds appropriated to the State Board of Education, the  
16 sum of one hundred fifty thousand dollars (\$150,000) for the 1997-98 fiscal year and the  
17 sum of one hundred fifty thousand dollars (\$150,000) for the 1998-99 fiscal year shall be  
18 used to implement Advancement Via Individual Determination (AVID) pilot programs in  
19 three local school administrative units. The purpose of the AVID pilot programs shall be  
20 to improve the academic performance of underachieving students so that they will  
21 become eligible to attend postsecondary education institutions. Local school  
22 administrative units selected as pilot units shall state how they plan to evaluate the  
23 success of the program.

24 The State Board of Education shall allocate the funds to the pilot programs in  
25 proportion to the number of students proposed to be served.  
26

27 Requested by: Senators Winner, Lee

#### 28 **DISTANCE LEARNING PROGRAM**

29 Section 8.17. Notwithstanding any other provision of law, funds appropriated  
30 to the State Board of Education and to State Aid to Local School Administrative Units for  
31 the Distance Learning Program shall be used for distance learning educational purposes,  
32 as directed by the State Board of Education.  
33

34 Requested by: Senators Winner, Lee

#### 35 **CRIME CONTROL GRANTS FOR THE N.C. CENTER FOR THE** 36 **PREVENTION OF SCHOOL VIOLENCE**

37 Section 8.18. The Secretary of Crime Control and Public Safety shall continue  
38 to make grants for the 1997-99 fiscal biennium for the operating expenses of the North  
39 Carolina Center for the Prevention of School Violence. If grant funds are not available  
40 for this purpose, the Board of Governors of The University of North Carolina may use  
41 funds within its budget for the expenses of the Center.  
42

43 Requested by: Senators Winner, Lee

**CHARTER SCHOOL ACCOUNTABILITY REQUIREMENTS**

Section 8.19. G.S. 115C-238.29F(f) reads as rewritten:

"(f) Accountability. –

- (1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.
- (2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.
- (3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board."

Requested by: Senator Perdue, Winner, Lee

**CIVIL PENALTY AND FORFEITURE FUND ESTABLISHED**

Section 8.20. Chapter 115C of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 31A.****"CIVIL PENALTY AND FORFEITURE FUND.****"§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil penalties and civil forfeitures that are collected by a State agency and are payable to the County School Fund pursuant to Article IX, Section 7 of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools.

**"§ 115C-457.2. Remittance of moneys to the Fund.**

The clear proceeds of all civil penalties and civil forfeitures that are collected by a State agency and are payable to the County School Fund pursuant to Article IX, Section 7 of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. The clear proceeds of such funds include the full amount of all such penalties and forfeitures collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected.

**"§ 115C-457.3. Transfer of funds to the State School Technology Fund.**

The Office of State Budget and Management shall transfer funds accruing to the Civil Penalty and Forfeiture Fund to the State School Technology Fund. These funds shall be allocated to local school administrative units on the basis of average daily membership."

Requested by: Senators Winner, Lee

**1 AVAILABILITY OF FUNDS ALLOCATED FOR STAFF DEVELOPMENT**

2 Section 8.21. G.S. 115C-417 reads as rewritten:

**3 "§ 115C-417. Availability of funds allocated for staff development.**

4 Funds allocated by the State Board of Education for staff development at the local  
5 level shall become available for expenditure on ~~September 1~~ July 1 of each fiscal year  
6 and shall remain available for expenditure until ~~August 31~~ December 31 of the  
7 subsequent fiscal year."  
8

9 Requested by: Senators Winner, Lee

**10 LATERAL ENTRY PROGRAM**

11 Section 8.22. The State Board of Education shall establish an advisory  
12 committee to assist it in studying the lateral entry program, a program which encourages  
13 lateral entry into the profession of teaching by skilled individuals from the private sector.  
14 In the course of the study, the State Board shall consider the recruitment, retention,  
15 training, and evaluation of persons who enter the teaching profession by lateral entry.  
16 The State Board shall place special emphasis on lateral entry of teachers at the high  
17 school level who have significant post-bachelors degree experience in the field in which  
18 they desire to teach.

19 The State Board of Education shall report the results of its study to the Joint  
20 Legislative Education Oversight Committee prior to April 15, 1998.

21  
22 Requested by: Senators Winner, Lee

**23 FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING  
24 STANDARDS**

25 Section 8.23. (a) Funds appropriated to the Department of Public Instruction in this  
26 act shall be used to pay for the National Board for Professional Teaching Standards  
27 (NBPTS) participation fee and for up to three days of approved paid leave for teachers  
28 participating in the NBPTS program during the 1997-98 school year and the 1998-99  
29 fiscal year for State-paid teachers who (i) have completed three years of teaching in  
30 North Carolina schools operated by local boards of education, the Department of Human  
31 Resources, the Department of Correction, or The University of North Carolina, or  
32 affiliated with The University of North Carolina, prior to application for NBPTS  
33 certification, and (ii) who have not previously received State funds for participating in  
34 any certification area in the NBPTS program. Teachers participating in the program shall  
35 take paid leave only with the approval of their supervisors.

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

42 (b) The State Board shall adopt policies and guidelines to implement this section.  
43

1 Requested by: Senators Winner, Lee

2 **OUT-OF-STATE TEACHER CERTIFICATION**

3 Section 8.24. The State Board of Education shall review the issue of certifying  
4 out-of-state teachers to determine whether the current standards are too restrictive to  
5 permit qualified teachers who are trained in other states from being certified in North  
6 Carolina. The State Board of Education shall report the results of this review to the Joint  
7 Legislative Education Oversight Committee prior to April 15, 1998.

8

9 Requested by: Senators Winner, Lee

10 **PUBLIC-PRIVATE PARTNERSHIP TO EXPAND TECHNOLOGY IN PUBLIC**  
11 **SCHOOLS**

12 Section 8.25. (a) Of the funds appropriated to the State Board of Education, the sum  
13 of five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year and the sum of  
14 five hundred thousand dollars (\$500,000) for the 1998-99 fiscal year shall be used to  
15 establish a public-private partnership to encourage, promote, and expand technology in  
16 North Carolina Public Schools.

17 (b) The purposes of the public-private partnership are to enlist public, private, and  
18 volunteer sectors to develop creative means of bringing technology to North Carolina  
19 Public School classrooms at minimal cost and expense to the State and its taxpayers:

20 (1) Help schools wire classrooms with high-speed data wire that enables  
21 them to connect to school networks as well as the Internet.

22 (2) Develop a plan to increase the number of computers, computing  
23 equipment, and networking equipment in North Carolina Public  
24 Schools.

25 (3) Develop a plan that will assure every school can connect to the Internet  
26 so that this tool is made available equally to all children in North  
27 Carolina Public Schools.

28 (4) Help develop programs to train teachers and other educators in the use  
29 of technology.

30 (5) Develop Internet-based learning programs designed to assist teachers in  
31 the job of helping young people learn.

32 (6) Test and evaluate the benefits of each of the projects; investigate and  
33 develop other means of using computer-based technology in  
34 classrooms; and assure that this information is available to educators.

35 (c) Pursuant to subdivision (2) of subsection (b) of this section, a vocational  
36 education computer recycling pilot program shall be established. The purposes of the  
37 pilot program are to:

38 (1) Develop and implement high school vocational education programs that  
39 train students to test, repair, reconfigure, upgrade, and maintain donated  
40 computers.

41 (2) Enhance a community's opportunities for economic development by  
42 providing vocational education students with educational, job, and  
43 hireability skills as well as skills in computer technology.

- 1           (3) Provide upgraded computers to schools, consistent with State-approved  
2 local school technology plans at a cost of four hundred dollars (\$400.00)  
3 to six hundred dollars (\$600.00) per unit rather than new computers  
4 costing around three thousand dollars (\$3,000) each.
- 5           (4) Help communities support their schools by encouraging business and  
6 industry to donate computer components to schools or sell them at  
7 greatly reduced prices.
- 8           (5) The State Board of Education, after consultation with ExplorNet, shall  
9 select seven local administrative units to participate in the computer  
10 recycling program. In selecting the pilot units, the State Board shall  
11 consider (i) indicators of the readiness of a unit to participate in the  
12 program, (ii) the degree of community support for such a program, and  
13 (iii) indicators of the need for the program in the community, such as  
14 lack of comparable training or resources in the community.
- 15           (6) The Information Resources Management Commission, in consultation  
16 with the State Board of Education, shall review and modify its standards  
17 for technical components of local school technology purchases to  
18 facilitate the implementation of the programs.
- 19       (d) The State Board of Education shall contract with the nonprofit corporation,  
20 ExplorNet, to administer the programs.
- 21       (e) The provisions of Article 3 of Chapter 143 of the General Statutes do not  
22 apply to contracts for supplies, materials, equipment, and contractual services to  
23 implement these programs. The Department of Administration may make its services  
24 available to the State Board of Education, when requested by the State Board of  
25 Education.
- 26       (f) The State Board of Education shall evaluate the educational components of  
27 the programs.
- 28       The State Board's contract with ExplorNet shall require ExplorNet to evaluate  
29 the technical components of the program and to submit the results of its evaluation to the  
30 Information Resources Management Commission for review and comment by May 15,  
31 1999. The Information Resources Management Commission shall submit the evaluation  
32 done by ExplorNet and the Commission's comments on it to the State Board of Education  
33 by August 15, 1999.
- 34       The State Board of Education shall report the results of these evaluations to the  
35 Joint Legislative Education Oversight Committee by September 15, 1999.

36  
37 Requested by: Senators Winner, Lee

38 **UNIFORM EDUCATION REPORTING SYSTEMS FUNDS**

39       Section 8.26. Funds appropriated for the 1997-99 fiscal biennium for the  
40 Uniform Education Reporting System shall be used for the maintenance, enhancement, or  
41 purchase of financial personnel or for student information software, in order to support  
42 the State Board of Education's responsibilities under G.S. 115C-12(18).  
43

1 Requested by: Senators Winner, Lee

2 **LEGISLATORS MAY SERVE ON SCHOOL TECHNOLOGY COMMISSION**

3 Section 8.27. (a) G.S. 115C-102.5 reads as rewritten:

4 **"§ 115C-102.5. Commission on School Technology created; membership.**

5 (a) There is created the Commission on School Technology. The Commission  
6 shall be located administratively in the Department of Public Instruction but shall  
7 exercise all its prescribed statutory powers independently of the Department of Public  
8 Instruction.

9 (b) The Commission shall consist of the following ~~16~~18 members:

10 (1) The State Superintendent of Public Instruction or a designee;

11 (2) One representative of The University of North Carolina, appointed by  
12 the President of The University of North Carolina;

13 (3) One representative of the North Carolina Community College System,  
14 appointed by the President of the North Carolina Community College  
15 System;

16 (4) The Deputy Controller for the Information Resources Management  
17 Commission in the Office of the State Controller;

18 (5) Four members appointed by the Governor;

19 (6) ~~Four~~Six members appointed by the ~~General Assembly upon the~~  
20 ~~recommendation of the~~ President Pro Tempore of the Senate ~~in~~  
21 ~~accordance with G.S. 120-121, two of whom shall be members of the~~  
22 ~~Senate. one of whom~~ One of these six members shall be ~~recommended~~  
23 ~~appointed~~ by the President of the Senate to serve as cochair; and

24 (7) ~~Four~~Six members appointed by the ~~General Assembly upon the~~  
25 ~~recommendation of the~~ Speaker of the House of Representatives ~~in~~  
26 ~~accordance with G.S. 120-121, two of whom shall be members of the~~  
27 ~~House of Representatives. one of whom~~ One of these six members shall  
28 be ~~recommended~~ appointed by the Speaker of the House of  
29 Representatives to serve as cochair.

30 In appointing members pursuant to subdivisions (5), (6), and (7) of this subsection, the  
31 appointing ~~entities~~ persons shall select individuals with technical or applied knowledge or  
32 experience in learning and instructional management technologies or individuals with  
33 expertise in curriculum or instruction who have successfully used learning and  
34 instructional management technologies.

35 No producers, vendors, or consultants to producers or vendors of learning or  
36 instructional management technologies shall serve on the Commission.

37 Members shall serve for two-year terms. Vacancies in terms of members ~~appointed by~~  
38 ~~the Governor~~ shall be filled by the appointing officer. ~~Vacancies in terms of members~~  
39 ~~appointed by the General Assembly shall be filled in accordance with G.S. 120-122.~~  
40 Persons appointed to fill vacancies shall qualify in the same manner as persons appointed  
41 for full terms.

42 (c) ~~Notwithstanding G.S. 120-123 and subsection (b) of this section, the~~  
43 ~~Commission shall also include one member of the Senate appointed by the President Pro~~

1 ~~Tempore of the Senate and one member of the House of Representatives appointed by the~~  
2 ~~Speaker of the House of Representatives. These members shall be voting members. The~~  
3 ~~term of office of these members shall end November 1, 1994.~~

4 (d) Members of the Commission who are also members of the General Assembly  
5 shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1.  
6 Members of the Commission who are officials or employees of the State shall receive  
7 travel allowances at the rate set forth in G.S. 138-6. All other members of the  
8 Commission shall be paid the per diem and allowances set forth in G.S. 138-5.

9 (e) The Department of Public Instruction, the Department of Community Colleges,  
10 and the Office of the State Controller shall provide requested professional and clerical  
11 staff to the Commission. The Commission may also employ professional and clerical  
12 staff and may hire outside consultants to assist it in its work. The Commission shall use  
13 an outside consultant to perform a requirements analysis for learning and instructional  
14 management technologies on a statewide basis that is based on information gathered from  
15 each local school administrative unit and that considers the needs of teachers, students,  
16 and administrators."

17 (b) G.S. 115C-102.6B reads as rewritten:

18 **"§ 115C-102.6B. Approval of State school technology plan.**

19 (a) The Commission shall present the State school technology plan it develops to  
20 the Joint Legislative Commission on Governmental Operations and the Joint Legislative  
21 Education Oversight Committee for their comments prior to January 1, 1995. At least  
22 every two years thereafter, the Commission shall develop any necessary modifications to  
23 the State school technology plan and present them to the Joint Legislative Commission  
24 on Governmental Operations and the Joint Legislative Education Oversight Committee.

25 (b) After presenting the plan or any proposed modifications to the plan to the Joint  
26 Legislative Commission on Governmental Operations and the Joint Legislative Education  
27 Oversight Committee, the Commission shall submit the plan or any proposed  
28 modifications to (i) the Information Resources Management Commission for its approval  
29 of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4), and  
30 (ii) the State Board of Education for ~~its approval of information purposes only.~~ The State  
31 Board shall adopt a plan that includes the components of the a plan set out in G.S. 115C-  
32 103.6A (1) through (16).

33 At least one-fourth of the members of any technical committee that reviews the plan  
34 for the Information Resources Management Commission shall be people actively  
35 involved in primary or secondary education.

36 (c) If no changes are made to the plan or the proposed modifications to the plan  
37 after the submission to the Information Resources Management Commission and the  
38 State Board of Education, the plan or the proposed modifications shall take effect upon  
39 approval by the Information Resources Management Commission and the State Board of  
40 Education."

41 (c) G.S. 120-123(60) is repealed.

42  
43 Requested by: Senators Winner, Lee



**1 NORTH CAROLINA STANDARDS AND ACCOUNTABILITY COMMISSION**

2 Section 8.28. The North Carolina Standards and Accountability Commission  
3 has completed the initial phase of its work and submitted a report to the State Board of  
4 Education. Therefore, effective August 1, 1997, Article 8A of Chapter 115C of the  
5 General Statutes is repealed. However, the task of integrating the Commission's  
6 recommendations into the standards and assessments system of the State Board of  
7 Education remains to be completed.

8 Recognizing the important role of the Commission's work, including the  
9 support of the business community as evidenced by the recent Business Summit on  
10 Education, there is established the Committee on Standards and Accountability. This  
11 Committee shall advise the State Board of Education regarding integration of the  
12 recommendations of the Standards and Accountability Commission into the Board's  
13 student performance standards. The Committee shall be composed of 13 members, nine  
14 appointed by the Governor, two appointed by the President Pro Tempore of the Senate,  
15 and two appointed by the Speaker of the House of Representatives. Of the Governor's  
16 nine appointments, one shall be for a chair of the Committee. The chair shall be a person  
17 in North Carolina who understands the connection of high and rigorous standards with  
18 student preparation for the world of work and other post-high school opportunities.

19 Funds appropriated to the Standards and Accountability Commission for the  
20 1997-99 fiscal biennium shall be used by the State Board of Education to continue to  
21 develop standards, accountability, and assessment systems in light of the  
22 recommendations of the Standards and Accountability Commission.

23  
24 Requested by: Senators Winner, Lee, Rand

**25 SPECIAL NEEDS CHILDREN FUNDS**

26 Section 8.29. Of the funds appropriated to the State Board of Education, the  
27 sum of five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year shall be  
28 allocated to local educational agencies for children with special needs reassigned to group  
29 homes but not included in the head count of children with special needs upon which the  
30 original funding for local educational agencies was based or for children with special  
31 needs in counties with special populations that frequently fluctuate in numbers such as  
32 military personnel. The State Board of Education shall allocate these funds upon  
33 applications made by local educational agencies.

34  
35 Requested by: Senator Perdue

**36 TEACHER APPRENTICESHIP PROGRAM**

37 Section 8.30. The State Board of Education shall use funds appropriated from  
38 the Worker Training Trust Fund in Section 14 of this act to design and implement a  
39 public school teacher apprenticeship program. Notwithstanding any other provision of  
40 law, individuals who participate in the program may be granted a provisional teaching  
41 certificate by the State Board of Education for no more than five years and shall be  
42 required to obtain certification before contracting for a sixth year of service with any  
43 local administrative unit in this State.

1 The State Board of Education shall collaborate with and may contract with the  
2 Governor's Commission on Workforce Preparedness on designing and implementing the  
3 program.

4  
5 Requested by: Senators Winner, Lee

6 **SAFE SCHOOLS**

7 Section 8.31. (a) Of the funds appropriated to State Aid to Local School  
8 Administrative Units, the State Board of Education may use up to five hundred thousand  
9 dollars (\$500,000) for the 1997-98 fiscal year and up to five hundred thousand dollars  
10 (\$500,000) for the 1998-99 fiscal year to provide safety intervention teams to schools to  
11 assist those schools in restoring safety and order. Upon the request of a local board of  
12 education, a superintendent, a principal, a school improvement team, or a parent-teacher  
13 organization at a school, the State Board of Education is authorized to provide a safety  
14 intervention team to a school. The team may consist of teachers, retired teachers, school  
15 administrators, retired school administrators, and others who have demonstrated their  
16 ability to restore and maintain order in public schools. The team shall spend a sufficient  
17 amount of time at the school to assess the problems at the school, assist school personnel  
18 with resolving those problems, and work with school personnel and others to develop a  
19 long-term plan for restoring and maintaining order and discipline at the school. The team  
20 shall also make recommendations to the local board of education and the superintendent  
21 on actions the board and the superintendent should consider taking to resolve problems at  
22 the school. The team shall revisit the school as needed to monitor the school's progress in  
23 implementing the plan and in restoring and maintaining order and discipline in the  
24 school. If appropriate, the team may make further recommendations to the local board of  
25 education and the superintendent on additional actions, including dismissal of teachers or  
26 administrators, to resolve problems at the school. If the school fails to make adequate  
27 progress on its implementation of a long-term plan, the team recommends the dismissal  
28 of any teacher or administrator, and the local board fails to take action on the dismissal  
29 recommendation, then the team may make the dismissal recommendation to the State  
30 Board of Education. Upon receipt of a dismissal recommendation, the State Board shall  
31 follow the procedure established in G.S. 115C-325(q)(1) or G.S. 115C-325(q)(2),  
32 whichever is applicable, for the dismissal of the teacher or administrator.

33 (b) Chapter 115C of the General Statutes is amended by adding a new Article to  
34 read:

35 **"ARTICLE 27A.**

36 **"MANAGEMENT AND PLACEMENT OF DISRUPTIVE STUDENTS.**

37 **"§ 115C-397.1. Management and placement of disruptive students.**

38 If, after a teacher has requested assistance from the principal two or more times due to  
39 a student's disruptive behavior, the teacher finds that the student's disruptive behavior  
40 continues to interfere with the academic achievement of that student or other students in  
41 the class, then the teacher may refer the matter to the school-based committee established  
42 at that school as authorized by the State Board of Education in its Procedures Governing  
43 Programs and Services for Children with Special Needs. The teacher may request that

1 additional classroom teachers participate in the committee's proceedings. For the  
2 purposes of this section, the student's parent, guardian, or legal custodian shall participate  
3 in the proceedings of the committee concerning the student; the local board of education  
4 may impose a civil penalty not to exceed one hundred dollars (\$100.00) on a parent,  
5 guardian, or legal custodian who fails to participate without good cause. Furthermore, a  
6 student is not required to be screened, evaluated, or identified as a child with special  
7 needs under this section. The committee shall review the matter and shall take one or  
8 more of the following actions: (i) advise the teacher on managing the student's behavior  
9 more effectively, (ii) recommend to the principal the transfer of the student to another  
10 class within the school, (iii) recommend to the principal a multidisciplinary diagnosis and  
11 evaluation of the student, (iv) recommend to the principal that the student be assigned to  
12 an alternative learning program, or (v) recommend to the principal that the student  
13 receive any additional services that the school or the school unit has the resources to  
14 provide for the student. If the principal does not follow the recommendation of the  
15 committee, the principal shall provide a written explanation to the committee, the teacher  
16 who referred the matter to the committee, and the superintendent, of any actions taken to  
17 resolve the matter and of the reason the principal did not follow the recommendation of  
18 the committee.

19 This section shall be in addition to and supplemental to disciplinary action taken in  
20 accordance with any other law. The recommendation of the committee is final and shall  
21 not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student  
22 to refer a disciplinary matter to this committee or to have the matter of the student's  
23 behavior referred to this committee before any discipline is imposed on the student."

- 24 (c) (1) Of the funds appropriated to State Aid to Local School  
25 Administrative Units, the sum of three million five hundred thousand  
26 dollars (\$3,500,000) for the 1997-98 fiscal year and the sum of three  
27 million five hundred thousand dollars (\$3,500,000) for the 1998-99  
28 fiscal year shall be used to provide additional teachers for middle  
29 school children who are academically below grade level. Middle  
30 school children are children in a school that serves grades six, seven,  
31 and eight, and no other grades.

32 The State Board of Education shall allocate these teacher positions to  
33 pilot middle schools on the basis of the number of students in grade six  
34 who scored at proficiency Level I on the end-of-grade test in  
35 mathematics, on the end-of-grade test in reading, or on both, at the end  
36 of their last school year. The funds must be used in schools that have at  
37 least 50 such students at a ratio of one teacher to every 50 students. No  
38 partial positions shall be allocated.

- 39 (2) The purpose of these funds is to improve the academic performance and  
40 the behavior of these students during the first school year after  
41 elementary school by placing them in classes with a low student-to-  
42 teacher ratio for either all of their core academic subjects or for the  
43 subject or subjects in which they are below grade level. In order to

1 accomplish this purpose, local school administrative units shall use (i)  
2 the teachers allocated for these students pursuant to the regular teacher  
3 allotment and (ii) the teachers allocated for these students under this  
4 section only to improve the academic performance and the behavior of  
5 these students. Local boards of education shall adopt rules to ensure that  
6 each student for whom funds for additional teacher positions are  
7 allocated under this section shall be assigned a teacher who is  
8 responsible for monitoring the academic progress of the student.

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

13 (d) G.S. 115C-366 is amended by adding the following new subsections to read:

14 "(a3) Before the admission of a student to any public school in North Carolina, the  
15 local board shall require the student's parent, guardian, custodian, or other person  
16 satisfactory to the local board to provide a statement made under oath or affirmation  
17 before a qualified official indicating whether the student is, at the time, under suspension  
18 or expulsion from attendance at a private or public school in this or any other state or has  
19 been convicted of a felony in this or any other state.

20 (a4) Notwithstanding any other law, a local board may deny admission to or place  
21 reasonable conditions on the admission of a student who has been suspended from a  
22 school under G.S. 115C-391 or who has been suspended from a school for conduct that  
23 could have led to a suspension from a school within the local school administrative unit  
24 where the student is seeking admission until the period of suspension has expired. Also,  
25 a local board may deny admission to or place reasonable conditions on the admission of a  
26 student who has been expelled from a school under G.S. 115C-391 or who has been  
27 expelled from a school for behavior that indicated the student's continued presence in  
28 school constituted a clear threat to the safety of other students or employees or who has  
29 been convicted of a felony in this or any other state. If the local board denies admission  
30 to a student who has been expelled or convicted of a felony, the student may request the  
31 local board to reconsider that decision in accordance with G.S. 115C-391(d)."

32 (e) Article 54 of Chapter 7A of the General Statutes is amended by adding the  
33 following new section to read:

34 **"§ 7A-675.1. Notification of schools when juveniles are alleged or found to be**  
35 **delinquent.**

36 (a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal  
37 and written notification of the following actions to the principal of the school that the  
38 juvenile attends:

- 39 (1) A petition is filed under G.S. 7A-560 that alleges delinquency for an  
40 offense that would be a felony if committed by an adult;  
41 (2) The judge transfers jurisdiction over a juvenile to superior court under  
42 G.S. 7A-608;

- 1           (3) The judge dismisses under G.S. 7A-637 the petition that alleges  
2 delinquency for an offense that would be a felony if committed by an  
3 adult;
- 4           (4) The judge issues a dispositional order under Article 52 of Chapter 7A of  
5 the General Statutes including, but not limited to, an order of probation  
6 that requires school attendance, concerning a juvenile alleged or found  
7 delinquent for an offense that would be a felony if committed by an  
8 adult; or
- 9           (5) The judge modifies or vacates any order or disposition under G.S. 7A-  
10 664 concerning a juvenile alleged or found delinquent for an offense  
11 that would be a felony if committed by an adult.

12       Notification of the school principal in person or by telephone shall be made before the  
13 beginning of the next school day. Delivery of the written notification shall be made as  
14 soon as practicable but at least within five days of the action. Delivery shall be made in  
15 person or by certified mail. Notification that a petition has been filed shall describe the  
16 nature of the offense. Notification of a dispositional order, a modified order, a vacated  
17 order, or a transfer to superior court shall describe the judge's action and any applicable  
18 disposition requirements. As used in this subsection, the term 'offense' shall not include  
19 any offense under Chapter 20 of the General Statutes.

20       (b) If the principal of the school the juvenile attends returns any notification as  
21 required by G.S. 115C-404 and if the juvenile court counselor learns that the juvenile is  
22 transferring to another school, the juvenile court counselor shall deliver the notification to  
23 the principal of the school to which the juvenile is transferring. Delivery shall be made  
24 as soon as practicable and shall be made in person or by certified mail.

25       (c) Principals shall handle any notification delivered under this section in  
26 accordance with G.S. 115C-404.

27       (d) For the purpose of this section, 'school' means any public or private school in  
28 the State that is authorized under Chapter 115C of the General Statutes."

29       (f) Article 29 of Chapter 115C of the General Statutes is amended by adding a  
30 new section to read:

31 **"§ 115C-404. Use of juvenile court information.**

32       (a) Written notifications received in accordance with G.S. 7A-675.1 are  
33 confidential records, are not public records as defined under G.S. 132-1, and shall not be  
34 made part of the student's official record under G.S. 115C-402. Immediately upon  
35 receipt, the principal shall maintain these documents in a safe, locked record storage that  
36 is separate from the student's other school records. The principal shall maintain these  
37 documents until the principal receives notification that the judge dismissed the petition  
38 under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court  
39 under G.S. 7A-608, or the judge granted the student's petition for expunction of the  
40 records. At that time, the principal shall shred, burn, or otherwise destroy the documents  
41 to protect the confidentiality of this information. In no case shall the principal make a  
42 copy of these documents.

1 (b) Documents received under this section may be used only to protect the safety  
2 of the student or others and to improve the educational opportunities in the school. Upon  
3 receipt of each document, the principal shall share the document with those individuals  
4 who have (i) direct guidance, teaching, or supervisory responsibility for the student, and  
5 (ii) a specific need to know in order to protect the safety of the student or others. Those  
6 individuals shall indicate in writing that they have read the document and that they agree  
7 to maintain its confidentiality. Failure to maintain the confidentiality of these documents  
8 as required by this section is grounds for dismissal of an employee who is not a career  
9 employee and is grounds for dismissal of an employee who is a career employee, in  
10 accordance with G.S. 115C-325(e)(1)i.

11 (c) If the student graduates, withdraws from school, is suspended for the  
12 remainder of the school year, is expelled, or transfers to another school, the principal  
13 shall return the documents to the juvenile court counselor and, if applicable, shall provide  
14 the counselor with the name and address of the school to which the student is  
15 transferring."

16 (g) G.S. 15A-505 reads as rewritten:

17 "**§ 15A-505. Notification of ~~minor's parent.~~ parent and school.**"

18 (a) A ~~law enforcement~~ law enforcement officer who charges a minor with a  
19 criminal offense shall notify the minor's parent or guardian of the charge, as soon as  
20 practicable, in person or by telephone. If the minor is taken into custody, the law  
21 enforcement officer or the officer's immediate superior shall notify a parent or guardian  
22 in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent  
23 or guardian of the minor cannot be found, then the officer or the officer's immediate  
24 superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

25 (b) The notification provided for by subsection (a) of this section shall not be  
26 required if:

- 27 (1) The minor is emancipated;
- 28 (2) The minor is not taken into custody and has been charged with a motor  
29 vehicle moving violation for which three or fewer points are assessed  
30 under G.S. 20-16(c), except an offense involving impaired driving, as  
31 defined in G.S. 20-4.01(24a); or
- 32 (3) The minor has been charged with a motor vehicle offense that is not a  
33 moving violation.

34 (c) A law enforcement officer who charges a person with a criminal offense that is  
35 a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall  
36 notify the principal of any school the person attends of the charge as soon as practicable  
37 but at least within five days. The notification may be made in person or by telephone. If  
38 the person is taken into custody, the law enforcement officer or the officer's immediate  
39 supervisor shall notify the principal of any school the person attends. This notification  
40 shall be in writing and shall be made within five days of the person's arrest. As used in  
41 this subsection, the term 'school' means any public or private school in the State that is  
42 authorized under Chapter 115C of the General Statutes."

43 (h) G.S. 115C-12 is amended by adding a new subdivision to read:

1           "(25) Duty to Provide Technical Assistance on School Safety Plans. – The  
2           State Board of Education shall provide technical assistance to local  
3           school administrative units on developing, implementing, and  
4           evaluating local plans to maintain, improve, or restore order and  
5           discipline within their schools."

6           (i) The Board of Governors of The University of North Carolina shall develop  
7 a plan for ensuring that school administrator and teacher preparation and continuing  
8 education programs provide their students with the training and experience they need to  
9 maintain and restore safety and order in schools.

10           The Board of Governors shall report on the plan, prior to February 15, 1998, to  
11 the Joint Legislative Education Oversight Committee.

12           (j) The State Board of Education shall review and consider modifications to its  
13 school facility guidelines in light of research on the relationship between (i) school  
14 design components, especially school size, and (ii) school climate and order.

15           The State Board shall also develop recommendations to local boards of  
16 education on modifications to the design or organization of existing schools that would  
17 improve school climate and order.

18           The State Board of Education shall report to the Joint Legislative Education  
19 Oversight Committee prior to February 15, 1998, on actions taken to implement the  
20 provisions of this section.

21           (k) Prior to August 15, 1997, the State Board of Education shall review and  
22 modify, if necessary, its policies and procedures on data kept and reports made on acts of  
23 violence in school and on students suspended or expelled from school, to ensure that data  
24 and reports are accurate and consistent on a statewide basis. The State Board shall report  
25 to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the  
26 impact of its efforts to attain accurate and consistent reports.

27           (1)(1) There is created the At-Risk Students Task Force under the State Board  
28 of Education. The Task Force shall consist of the Chair of the State  
29 Board of Education, the Superintendent of Public Instruction, the  
30 Secretary of Human Resources, the State Health Director, and the  
31 Director of the Administrative Office of the Courts. Each officer may  
32 designate one representative from that officer's department or office to  
33 represent that officer on the Task Force. These officers also may  
34 appoint additional members who represent other State and local public  
35 agencies to the Task Force. The Chair of the State Board of Education,  
36 or the Chair's designee, shall serve as the Chair of the Task Force. The  
37 Department of Public Instruction and the Department of Human  
38 Resources shall provide staff and clerical support to the Task Force.  
39 The State Board of Education shall fund the Task Force within funds  
40 available to it.

41           (2) The Task Force shall develop a plan to develop interagency agreements  
42 between local school administrative units and other local public  
43 agencies, including, among others, health departments, departments of

1 social services, mental health agencies, and courts, in order to provide  
2 cooperative services to students who are at risk of school failure, at risk  
3 of participation in juvenile crime, or both.

4 (3) The Task Force shall report its plan, along with any suggested statutory  
5 revisions, to the Joint Legislative Education Oversight Committee by  
6 October 15, 1997, at which time the Task Force shall terminate.

7 (m) G.S. 143B-152.5 reads as rewritten:

8 **"§ 143B-152.5. Grants review and selection.**

9 (a) The Department shall develop and disseminate a request for applications and  
10 establish procedures to be followed in developing and submitting applications to establish  
11 local S.O.S. programs and administering grants to establish local S.O.S. programs. This  
12 information shall include examples of the design and types of S.O.S. programs that  
13 evaluations have shown are likely to be successful in improving the academic  
14 performance of the participants or in reducing disruptive or illegal behavior.

15 (b) The Secretary of Human Resources shall appoint a State task force to assist the  
16 Secretary in reviewing grant applications. The State task force shall include  
17 representatives of the Department of Human Resources, the Department of Public  
18 Instruction, local school administrative units, educators, parents, the juvenile justice  
19 system, social services, and governmental agencies providing services to children, and  
20 other members the Secretary considers appropriate. In appointing the State task force,  
21 the Secretary shall consult with the Superintendent of Public Instruction in an effort to  
22 coordinate the membership of this State task force, the State task force appointed by the  
23 Secretary pursuant to G.S. 143B-152.14, and the State task force appointed by the  
24 Superintendent pursuant to G.S. 115C-238.42.

25 In reviewing grant applications, the Secretary and the State task force may consider (i)  
26 the severity of the local problems as determined by the needs assessment data,  
27 (ii) the likelihood that the locally designed plan will result in high quality after-school  
28 services for school-aged children, (iii) evidence of local collaboration and coordination of  
29 services, (iv) any innovative or experimental aspects of the plan that will make it a useful  
30 model for replication in other neighborhoods and communities, ~~and~~ (v) evidence that  
31 similarly designed programs have been efficient and effective in improving the academic  
32 performance of the participants or in reducing disruptive or illegal behavior, and (vi) any  
33 other factors which affect the well-being of school-aged children.

34 (c) In determining the amount of funds an applicant receives, the Secretary and the  
35 State task force may consider (i) the number of children to be served, (ii) the number and  
36 percentage of children to be served who participate in the subsidized lunch program, (iii)  
37 the number and percentage of school-aged children with two working parents or one  
38 single parent to be served, (iv) the availability of other resources or funds, and (v) the  
39 amount needed to implement the proposal.

40 (d) The Secretary shall award the grants."

41 (n) G.S. 143B-152.7(a) reads as rewritten:



1       (a) The Department of Human Resources shall develop and implement an  
2 evaluation system that will assess the efficiency and effectiveness of the S.O.S. Program.  
3 The Department shall design this system to:

4       (1) Provide information to the Department and to the General Assembly on  
5 how to improve and refine the programs;

6       (1a) Develop information for dissemination to potential grant applicants on  
7 the design of programs that experience has shown are likely to be  
8 successful;

9       (2) Enable the Department and the General Assembly to assess the overall  
10 quality, efficiency, and impact of the existing programs;

11       (3) Enable the Department and the General Assembly to determine whether  
12 to modify the S.O.S. Program; and

13       (4) Provide a detailed fiscal analysis of how State funds for these programs  
14 were used."

15       (o) G.S. 115C-12(24) reads as rewritten:

16       "(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide  
17 Technical Assistance on Implementation of Programs, and Evaluate  
18 Programs. – The State Board of Education shall adopt guidelines for  
19 assigning students to alternative learning programs. These guidelines  
20 shall include (i) a description of the programs and services that are  
21 recommended to be provided in alternative learning programs and (ii) a  
22 process for ensuring that an assignment is appropriate for the student  
23 and that the student's parents are involved in the decision.

24       The State Board of Education shall provide technical support to local  
25 school administrative units to assist them in developing and  
26 implementing plans for alternative learning programs.

27       The State Board of Education shall recommend to local boards of  
28 education ways to measure the academic achievement of students while  
29 they are in the alternative learning programs or in remedial learning  
30 programs.

31       The State Board shall evaluate the effectiveness of alternative  
32 learning programs and, in its discretion, of any other programs funded  
33 from the Alternative Schools/At-Risk Student allotment. Local school  
34 administrative units shall report to the State Board of Education on how  
35 funds in the Alternative Schools/At-Risk Student allotment are spent  
36 and shall otherwise cooperate with the State Board of Education in  
37 evaluating the alternative learning programs. The State Board of  
38 Education shall report annually to the Joint Legislative Education  
39 Oversight Committee, beginning in December 1996, on the results of  
40 this evaluation."

41       (p) The State Board of Education and the Secretary of the Department of  
42 Human Resources shall appoint an advisory committee to consider the advisability of and  
43 to develop a proposal for creating regional residential schools for students with emotional

1 and behavioral problems so severe that the public schools cannot serve them. The  
2 advisory committee shall clearly define the population and the age limits of the  
3 population for whom such a residential school would be appropriate, estimate the number  
4 of students in that population, devise a plan for building and operating such schools, and  
5 estimate the costs and benefits of such schools. The advisory committee shall consider  
6 whether any existing State facilities would be available and appropriate to house such a  
7 school. The advisory committee shall report the results of its study, including its  
8 recommendation on the advisability of creating these schools, to the State Board of  
9 Education and the Secretary of the Department of Human Resources prior to January 15,  
10 1998. The State Board of Education and the Secretary of Human Resources shall report  
11 the results of the study to the Joint Legislative Education Oversight Committee prior to  
12 February 15, 1998.

13 (q) G.S. 115C-391(a) reads as rewritten:

14 "(a) Local boards of education shall adopt policies not inconsistent with the  
15 provisions of the Constitutions of the United States and North Carolina, governing the  
16 conduct of students and establishing procedures to be followed by school officials in  
17 suspending or expelling any student, or in disciplining any student if the offensive  
18 behavior could result in suspension, expulsion, or the administration of corporal  
19 punishment. The policies that shall be adopted for the administration of corporal  
20 punishment shall include at a minimum the following conditions:

- 21 (1) Corporal punishment shall not be administered in a classroom with  
22 other children present;
- 23 (2) The student body shall be informed beforehand what general types of  
24 misconduct could result in corporal punishment;
- 25 (3) Only a teacher, substitute teacher, principal, or assistant principal may  
26 administer corporal punishment and may do so only in the presence of a  
27 principal, assistant principal, teacher, substitute teacher, teacher  
28 assistant, or student teacher, who shall be informed beforehand and in  
29 the student's presence of the reason for the punishment; and
- 30 (4) An appropriate school official shall provide the child's parent or  
31 guardian with notification that corporal punishment has been  
32 administered, and upon request, the official who administered the  
33 corporal punishment shall provide the child's parent or guardian a  
34 written explanation of the reasons and the name of the second school  
35 official who was present.

36 ~~The Each local~~ board shall publish all the policies mandated by this ~~subsection~~ section  
37 and make them available to each student and his parent or guardian at the beginning of  
38 each school year.

39 (a1) Notwithstanding any policy adopted pursuant to this section, school personnel  
40 may use reasonable force, including corporal punishment, to control behavior or to  
41 remove a person from the scene in those situations when necessary:

- 42 (1) To quell a disturbance threatening injury to others;

- 1 (2) To obtain possession of weapons or other dangerous objects on the
- 2 person, or within the control, of a student;
- 3 (3) For self-defense; ~~or~~
- 4 (4) For the protection of persons or ~~property; property; or~~
- 5 (5) To maintain order on school property, in the classroom, or at a school-
- 6 related activity on or off school property."

7 (r) G.S. 115C-391 is amended by adding the following new subsection to read:  
 8 "(h) Notwithstanding any other law, no officer or employee of the State Board of  
 9 Education or of a local board of education shall be civilly liable for using reasonable  
 10 force, including corporal punishment, in conformity with State law, State or local rules,  
 11 or State or local policies regarding the control, discipline, suspension, and expulsion of  
 12 students. Furthermore, the burden of proof is on the claimant to show that the amount of  
 13 force used was not reasonable."

14  
 15 Requested by: Senators Plyler, Perdue, Odom

16 **SCHOOL-BASED ADMINISTRATOR SALARIES**

17 Section 8.32. (a) Funds appropriated to the Reserve for Salary Increases shall be used  
 18 for the implementation of the salary schedule for school-based administrators as provided  
 19 in this section. These funds shall be used for State-paid employees only.

20 (b) The salary schedule for school-based administrators shall apply only to  
 21 principals and assistant principals. The salary schedule for the 1997-98 fiscal year,  
 22 commencing July 1, 1997, is as follows:

23	24	25	Asst.						
26	Step	Prin.	Prin.I	Prin.II	Prin.III	Prin.IV	Prin.V	Prin.VI	Prin.VII
28	0	—	—	—	—	—	—	—	—
29	1	—	—	—	—	—	—	—	—
30	2	—	—	—	—	—	—	—	—
31	3	—	—	—	—	—	—	—	—
32	4	\$2,602	—	—	—	—	—	—	—
33	5	2,655	—	—	—	—	—	—	—
34	6	2,708	—	—	—	—	—	—	—
35	7	2,762	—	—	—	—	—	—	—
36	8	2,817	\$2,817	—	—	—	—	—	—
37	9	2,873	2,873	—	—	—	—	—	—
38	10	2,930	2,930	\$2,989	—	—	—	—	—
39	11	2,989	2,989	3,049	—	—	—	—	—
40	12	3,049	3,049	3,110	\$3,172	—	—	—	—
41	13	3,110	3,110	3,172	3,235	\$3,300	—	—	—
42	14	3,172	3,172	3,235	3,300	3,366	\$3,433	—	—
43	15	3,235	3,235	3,300	3,366	3,433	3,502	—	—

1	16	3,300	3,300	3,366	3,433	3,502	3,572	\$3,643	—
2	17	3,366	3,366	3,433	3,502	3,572	3,643	3,716	\$3,791
3	18	3,433	3,433	3,502	3,572	3,643	3,716	3,791	3,867
4	19	3,502	3,502	3,572	3,643	3,716	3,791	3,867	3,944
5	20	3,572	3,572	3,643	3,716	3,791	3,867	3,944	4,023
6	21	3,643	3,643	3,716	3,791	3,867	3,944	4,023	4,103
7	22	3,716	3,716	3,791	3,867	3,944	4,023	4,103	4,185
8	23	3,791	3,791	3,867	3,944	4,023	4,103	4,185	4,269
9	24	3,867	3,867	3,944	4,023	4,103	4,185	4,269	4,355
10	25	3,944	3,944	4,023	4,103	4,185	4,269	4,355	4,442
11	26	4,023	4,023	4,103	4,185	4,269	4,355	4,442	4,531
12	27	4,103	4,103	4,185	4,269	4,355	4,442	4,531	4,622
13	28	4,185	4,185	4,269	4,355	4,442	4,531	4,622	4,714
14	29	4,269	4,269	4,355	4,442	4,531	4,622	4,714	4,808
15	30	4,355	4,355	4,442	4,531	4,622	4,714	4,808	4,904
16	31	4,442	4,442	4,531	4,622	4,714	4,808	4,904	5,002
17	32	—	4,531	4,622	4,714	4,808	4,904	5,002	5,102
18	33	—	—	4,714	4,808	4,904	5,002	5,102	5,204
19	34	—	—	4,808	4,904	5,002	5,102	5,204	5,308
20	35	—	—	—	5,002	5,102	5,204	5,308	5,414
21	36	—	—	—	5,102	5,204	5,308	5,414	5,522
22	37	—	—	—	—	5,308	5,414	5,522	5,632
23	38	—	—	—	—	—	5,522	5,632	5,745
24	39	—	—	—	—	—	—	5,745	5,860
25	40	—	—	—	—	—	—	5,860	5,977
26	41	—	—	—	—	—	—	—	6,097.

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

30	31	32	33	34	35	36	37	38	39
		<b>Classification</b>							<b>Number of Teachers Supervised</b>
		Assistant Principal							
		Principal I							Less than 11 Teachers
		Principal II							11-21 Teachers
		Principal III							22-32 Teachers
		Principal IV							33-43 Teachers
		Principal V							44-54 Teachers
		Principal VI							55-65 Teachers
		Principal VII							More than 65 Teachers

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

1 (d) A principal shall be placed on the step on the salary schedule that reflects total  
2 number of years of experience as a certificated employee of the public schools and an  
3 additional step for every three years of experience as a principal.

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

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

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

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

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

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

34 (i) Except as provided in subsection (h) of this section, the salary of a principal  
35 or assistant principal shall not be less for the 1997-98 fiscal year than it was for the 1993-  
36 94 fiscal year solely as a result of placement on the salary schedule established in this  
37 section.

38 (j) The State Board may authorize local boards of education to pay persons for  
39 one year at the entry-level step of the assistant principal's salary schedule if they (i) are  
40 serving as assistant principals, (ii) have completed one year of a masters in school  
41 administration program, and (iii) are not certified as assistant principals.

42  
43 Requested by: Senators Plyler, Perdue, Odom

**SCHOOL CENTRAL OFFICE SALARIES**

Section 8.33. (a) The following monthly salary ranges apply to public school superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1997-98 fiscal year, beginning July 1, 1997:

(1)	School Administrator I:
	\$2,818 - \$4,669
(2)	School Administrator II:
	\$2,991 - \$4,956
(3)	School Administrator III:
	\$3,174 - \$5,260
(4)	School Administrator IV:
	\$3,302 - \$5,473
(5)	School Administrator V:
	\$3,435 - \$5,694
(6)	School Administrator VI:
	\$3,645 - \$6,044
(7)	School Administrator VII:
	\$3,792 - \$6,288

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer, within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1997.

(b) The following monthly salary ranges apply to public school superintendents for the 1997-98 fiscal year, beginning July 1, 1997:

(1)	Superintendent I (Up to 2,500 ADM):	\$4,025 - \$6,673
(2)	Superintendent II (2,501 - 5,000 ADM):	\$4,272 - \$7,081
(3)	Superintendent III (5,001 - 10,000 ADM):	\$4,533 - \$7,514
(4)	Superintendent IV (10,001 - 25,000 ADM):	\$4,811 - \$7,974
(5)	Superintendent V (Over 25,000 ADM):	\$5,106 - \$8,462

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

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 8.32 of this act.

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

1 (d) Superintendents, assistant superintendents, associate superintendents,  
2 directors/coordinators, supervisors, and finance officers with certification based on  
3 academic preparation at the six-year degree level shall receive a salary supplement of one  
4 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided  
5 for pursuant to this section. Superintendents, assistant superintendents, associate  
6 superintendents, directors/coordinators, supervisors, and finance officers with  
7 certification based on academic preparation at the doctoral degree level shall receive a  
8 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to  
9 the compensation provided for under this section.

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

13 (f) The Director of the Budget shall transfer from the Reserve for Salary  
14 Increases created in this act for fiscal year 1997-98, beginning July 1, 1997, funds  
15 necessary to provide an average annual salary increase of three percent (3%), including  
16 funds for the employer's retirement and social security contributions, commencing July 1,  
17 1997, for all permanent full-time personnel paid from the Central Office Allotment. The  
18 State Board of Education shall allocate these funds to local school administrative units.  
19 The local boards of education shall establish guidelines for providing their salary  
20 increases to these personnel.

21  
22 Requested by: Senators Plyler, Perdue, Odom

### 23 **NONCERTIFIED PUBLIC SCHOOL EMPLOYEES' SALARY INCREASE**

24 Section 8.34. The Director of the Budget may transfer from the Reserve for  
25 Salary Increases created in this act for fiscal year 1997-98, commencing July 1, 1997,  
26 funds necessary to provide a salary increase of three percent (3%), including funds for the  
27 employer's retirement and social security contributions, commencing July 1, 1997, for all  
28 noncertified public school employees whose salaries are supported from the State's  
29 General Fund. Local boards of education shall increase the rates of pay for all such  
30 employees who were employed during fiscal year 1996-97 and who continue their  
31 employment for fiscal year 1997-98 by at least three percent (3%), commencing July 1,  
32 1997. These funds shall not be used for any purpose other than for the salary increases  
33 and necessary employer contributions provided by this section.

34 The Director of the Budget may transfer from the salary increase reserve fund  
35 created in this act for fiscal year 1997-98, beginning July 1, 1997, funds necessary to  
36 provide the salary increases for noncertified public school employees whose salaries are  
37 supported from the State's General Fund in accordance with the provisions of this section.

### 38 39 **SUBPART B. EXCELLENT SCHOOLS ACT PROVISIONS**

40  
41 Requested by: Senators Plyler, Perdue, Odom

### 42 **TEACHER SALARY SCHEDULES**

1 Section 8.35. (a) Effective for the 1997-98 school year, the Director of the Budget  
 2 may transfer from the Reserve for Salary Increases for the 1997-98 fiscal year funds  
 3 necessary to implement the teacher salary schedule set out in subsection (b) of this  
 4 section, including funds for the employer's retirement and social security contributions  
 5 and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14  
 6 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years  
 7 of State service, two percent (2%) of base salary for 20 to 24 years of State service, and  
 8 four and one-half percent (4.5%) of base salary for 25 or more years of State service,  
 9 commencing with July 1, 1997, for all teachers whose salaries are supported from the  
 10 State's General Fund. These funds shall be allocated to individuals according to rules  
 11 adopted by the State Board of Education and the Superintendent of Public Instruction.  
 12 The longevity payment shall be paid in a lump sum once a year.

13 (b)(1) For the 1997-98 school year, the following monthly salary schedules  
 14 shall apply to certified personnel of the public schools who are  
 15 classified as teachers. The schedule contains 30 steps with each step  
 16 corresponding to one year of teaching experience.

17  
 18 **1997-98 MONTHLY SALARY SCHEDULE**

19

20	Years of	"A"Teachers	" G"	"A"Teachers	" G"Teachers
21	Experience		Teachers	with NBPTS	with NBPTS
22				Certification	Certification
23	0	\$2,215	\$2,353	\$2,480	\$2,635
24	1	2,257	2,398	2,527	2,685
25	2	2,300	2,444	2,576	2,737
26	3	2,436	2,588	2,728	2,898
27	4	2,495	2,651	2,794	2,969
28	5	2,543	2,702	2,848	3,026
29	6	2,592	2,754	2,903	3,084
30	7	2,641	2,806	2,957	3,142
31	8	2,706	2,875	3,030	3,220
32	9	2,756	2,928	3,086	3,279
33	10	2,808	2,984	3,144	3,342
34	11	2,861	3,040	3,204	3,404
35	12	2,915	3,097	3,264	3,468
36	13	2,970	3,156	3,326	3,534
37	14	3,026	3,215	3,389	3,600
38	15	3,083	3,276	3,452	3,669
39	16	3,141	3,337	3,517	3,737
40	17	3,201	3,401	3,585	3,809
41	18	3,262	3,466	3,653	3,881
42	19	3,325	3,533	3,724	3,956
43	20	3,388	3,600	3,794	4,032



1	21	3,452	3,668	3,866	4,108
2	22	3,517	3,737	3,939	4,185
3	23	3,584	3,808	4,014	4,264
4	24	3,653	3,881	4,091	4,346
5	25	3,723	3,956	4,169	4,430
6	26	3,794	4,031	4,249	4,514
7	27	3,867	4,109	4,331	4,602
8	28	3,941	4,187	4,413	4,689
9	29+	4,017	4,268	4,499	4,780

10           (2) Certified public school teachers with certification based on academic  
11           preparation at the six-year degree level shall receive a salary supplement  
12           of one hundred twenty-six dollars (\$126.00) per month in addition to the  
13           compensation provided for certified personnel of the public schools who  
14           are classified as "G"teachers. Certified public school teachers with  
15           certification based on academic preparation at the doctoral degree level  
16           shall receive a salary supplement of two hundred fifty-three dollars  
17           (\$253.00) per month in addition to the compensation provided for  
18           certified personnel of the public schools who are classified as  
19           "G"teachers.

20           (c) Effective for the 1997-98 school year, the first step of the salary schedule for  
21           school psychologists shall be equivalent to Step 5, corresponding to five years of  
22           experience, on the salary schedule established in this section for certified personnel of the  
23           public schools who are classified as "G"teachers. Certified psychologists shall be placed  
24           on the salary schedule at an appropriate step based on their years of experience. Certified  
25           psychologists shall receive longevity payments based on years of State service in the  
26           same manner as teachers.

27           Certified psychologists with certification based on academic preparation at the  
28           six-year degree level shall receive a salary supplement of one hundred twenty-six dollars  
29           (\$126.00) per month in addition to the compensation provided for certified psychologists.  
30           Certified psychologists with certification based on academic preparation at the doctoral  
31           degree level shall receive a salary supplement of two hundred fifty-three dollars  
32           (\$253.00) per month in addition to the compensation provided for certified psychologists.

33           (d) Effective for the 1997-98 school year, speech pathologists who are certified  
34           as speech pathologists at the masters degree level and audiologists who are certified as  
35           audiologists at the masters degree level and who are employed in the public schools as  
36           speech and language specialists and audiologists shall be paid on the school psychologist  
37           salary schedule.

38           Speech pathologists with certification based on academic preparation at the  
39           six-year degree level shall receive a salary supplement of one hundred twenty-six dollars  
40           (\$126.00) per month in addition to the compensation provided for speech pathologists.  
41           Speech pathologists with certification based on academic preparation at the doctoral  
42           degree level shall receive a salary supplement of two hundred fifty-three dollars  
43           (\$253.00) per month in addition to the compensation provided for speech pathologists.

1  
2 Requested by: Senators Winner, Lee

3 **FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM**

4 Section 8.36. (a) Of the funds appropriated to State Aid to Local School  
5 Administrative Units, the State Board of Education may use up to sixty-seven million  
6 five hundred thousand dollars (\$67,500,000) for the 1997-98 fiscal year to provide  
7 incentive funding for schools that meet or exceed the projected levels of improvement in  
8 student performance, in accordance with the ABC's of Public Education Program. In  
9 accordance with State Board of Education policy, incentive awards in schools that  
10 achieve higher than expected improvements may be up to: (i) one thousand dollars  
11 (\$1,000) for each teacher and for certified personnel; and (ii) five hundred dollars  
12 (\$500.00) for each teacher assistant. In accordance with State Board of Education policy,  
13 incentive awards in schools that meet the expected improvements may be up to: (i) five  
14 hundred dollars (\$500.00) for each teacher and for certified personnel; and (ii) two  
15 hundred fifty dollars (\$250.00) for each teacher assistant.

16 (b) Of the funds appropriated to State Aid to Local School Administrative Units,  
17 the State Board of Education may use up to two million seventy-three thousand seven  
18 hundred twenty-nine dollars (\$2,073,729) for the 1997-98 fiscal year to provide a bonus  
19 equal to one percent (1%) of salary to each principal of a school that exceeds expected  
20 improvements.

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

23  
24 Requested by: Senators Winner, Lee

25 **EXTRA PAY FOR MENTOR TEACHERS**

26 Section 8.37. Of the funds appropriated to State Aid to Local School  
27 Administrative Units, the sum of three million five hundred thousand dollars  
28 (\$3,500,000) for the 1997-98 fiscal year shall be used to provide every newly certified  
29 teacher with a qualified and well-trained mentor. These funds shall be used to  
30 compensate each mentor at the rate of (i) one hundred dollars (\$100.00) per month for a  
31 maximum of 10 months for serving as a mentor during the school year, and (ii) one  
32 hundred dollars (\$100.00) for serving as a mentor for one day prior to the beginning of  
33 the school year.

34  
35 Requested by: Senators Winner, Lee

36 **EXTRA PAY FOR NEW TEACHER DEVELOPMENT**

37 Section 8.38. Of the funds appropriated to State Aid to Local School  
38 Administrative Units, the sum of eight hundred thousand dollars (\$800,000) for the 1997-  
39 98 fiscal year shall be used to provide every newly certified teacher with three extra days  
40 of employment for orientation and classroom preparation. These funds shall be used to  
41 compensate each newly certified teacher at the daily pay rate of an entry-level teacher.

42  
43 Requested by: Senators Winner, Lee

**EXTRA PAY FOR PROFESSIONAL DEVELOPMENT**

Section 8.39. Of the funds appropriated to State Aid to Local School Administrative Units, the sum of six million eight hundred thousand dollars (\$6,800,000) for the 1997-98 fiscal year and the sum of six million eight hundred thousand dollars (\$6,800,000) for the 1998-99 fiscal year shall be used for assistance teams to low-performing schools and for professional development relating to the State Board's reading plan under the ABC Plan, mathematics education, and other areas as determined by the State Board of Education.

The General Assembly encourages the State Board to contract with the North Carolina Teacher Academy for teachers participating in assistance teams to low-performing schools. The State Board shall report to the Joint Legislative Education Oversight Committee prior to April 15, 1998, and prior to April 15, 1999, on any contract with the North Carolina Teacher Academy.

Requested by: Senators Winner, Lee

**PUBLIC SCHOOL CALENDAR CHANGES/EXTRA PAY FOR EXTRA DAYS AND EXTRA DUTIES**

Section 8.40. (a) G.S. 115C-84 is repealed.

(b) G.S. 115C-84.1 is repealed.

(c) Part 2 of Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-84.2. School calendar.**

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

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

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

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

(4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to

1 schedule under subdivision (5) of this subsection. A local board may  
2 schedule different purposes for different personnel on any given day and  
3 is not required to schedule the same dates for all personnel.

4 (5) The remaining days shall be scheduled by each individual school in any  
5 or all of the following methods: (i) by the school improvement team in  
6 consultation with the school's principal, (ii) in the school improvement  
7 plan, (iii) by an amendment to the school improvement plan, and (iv) by  
8 agreement between the individual teacher and the school's principal.  
9 Days may be scheduled for any of the purposes allowed under  
10 subdivision (4) of this subsection. Days may be scheduled for different  
11 purposes for different personnel and there is no requirement to schedule  
12 the same dates for all personnel.

13 Local boards of education shall consult with parents and the employed public school  
14 personnel in the development of the school calendar.

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

17 (1) The total number of teacher workdays shall not exceed 200 days.

18 (2) Teachers shall not be required to work during the month of July unless:  
19 (i) the school is a year-round school; or (ii) the teacher is employed for a  
20 term in excess of 10 months.

21 (3) School shall not be held on Sundays.

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

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

31 (d) G.S. 115C-302 is repealed.

32 (e) Article 20 of Chapter 115C of the General Statutes is amended by adding a  
33 new section to read:

34 "**§ 115C-302.1. Salary.**

35 (a) Prompt Payment. – Teachers shall be paid promptly when their salaries are due  
36 provided the legal requirements for their employment and service have been met. All  
37 teachers employed by any local school administrative unit who are to be paid from local  
38 funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

39 (b) Salary Payments. – State-allotted teachers shall be paid for a term of 10  
40 months. State-allotted months of employment for vocational education to local boards  
41 shall be used for the employment of teachers of vocational and technical education for a  
42 term of employment to be determined by the local boards of education.

1       Each local board of education shall establish a set date on which monthly salary  
2 payments to State-allotted teachers shall be made. This set pay date may differ from the  
3 end of the month of service. The daily rate of pay for teachers shall equal one twenty-  
4 second of the monthly rate of pay.

5       Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher  
6 who fails to attend scheduled workdays or who has not worked the number of days for  
7 which the teacher has been paid and who resigns, is dismissed, or whose contract is not  
8 renewed shall repay to the local board any salary payments received for days not yet  
9 worked. A teacher who has been prepaid and continues to be employed by a local board  
10 but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325  
11 or other appropriate discipline.

12       Any individual teacher who is not employed in a year-round school may be paid in 12  
13 monthly installments if the teacher so requests on or before the first day of the school  
14 year. The request shall be filed in the local school administrative unit which employs the  
15 teacher. The payment of the annual salary in 12 installments instead of 10 shall not  
16 increase or decrease the teacher's annual salary nor in any other way alter the contract  
17 made between the teacher and the local school administrative unit. Teachers employed  
18 for a period of less than 10 months shall not receive their salaries in 12 installments.

19       (c) Vacation. – Included within the 10-month term shall be annual vacation leave  
20 at the same rate provided for State employees, computed at one-twelfth of the annual rate  
21 for State employees for each month of employment. Local boards shall provide at least  
22 10 days of annual vacation leave at a time when students are not scheduled to be in  
23 regular attendance. However, instructional personnel who do not require a substitute may  
24 use annual vacation leave on days that students are in attendance. Vocational and  
25 technical education teachers who are employed for 11 or 12 months may, with prior  
26 approval of the principal, work on annual vacation leave days designated in the school  
27 calendar and may use those annual vacation leave days during the eleventh or twelfth  
28 month of employment.

29       On a day that pupils are not required to attend school due to inclement weather, but  
30 employees are required to report for a workday, a teacher may elect not to report due to  
31 hazardous travel conditions and to take an annual vacation day or to make up the day at a  
32 time agreed upon by the teacher and the teacher's immediate supervisor or principal. On  
33 a day that school is closed to employees and pupils due to inclement weather, a teacher  
34 shall work on the scheduled makeup day.

35       All vacation leave taken by the teacher will be upon the authorization of the teacher's  
36 immediate supervisor and under policies established by the local board of education.  
37 Annual vacation leave shall not be used to extend the term of employment.

38       Teachers may accumulate annual vacation leave days without any applicable  
39 maximum until June 30 of each year. On June 30 of each year, any teacher or other  
40 personnel paid on the teacher salary schedule with more than 30 days of accumulated  
41 annual vacation leave shall, at the teacher's option, have the excess accumulation  
42 converted to either sick leave or pay, so that only 30 days are carried forward to July 1 of  
43 the same year.

1 Upon separation from service due to resignation, dismissal, reduction in force, or  
2 death, an employee shall be paid in a lump sum for accumulated annual leave not to  
3 exceed a maximum of 30 days. Upon separation from service due to service retirement,  
4 any teacher or other personnel paid on the teacher salary schedule with more than 30 days  
5 of accumulated annual vacation leave may, at the teacher's option, have some or all of the  
6 excess accumulation converted to sick leave for creditable service towards retirement. A  
7 retiring teacher's accumulated annual leave, including any excess accumulated annual  
8 leave that is not converted to sick leave, shall be paid in a lump sum. Employees going  
9 onto term disability may exhaust annual leave rather than be paid in a lump sum.

10 Notwithstanding any provisions of this subsection to the contrary, no person shall be  
11 entitled to pay for any vacation day not earned by that person.

12 (d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each  
13 full month of employment not to exceed two days per year. Personal leave may be  
14 accumulated to a maximum of five days. Personal leave may be used only upon the  
15 authorization of the teacher's immediate supervisor, but if the request is made at least five  
16 days in advance, the teacher cannot be required to provide a reason for the request.  
17 Unless approved by the principal, a teacher shall not take personal leave on the first day  
18 the teacher is required to report for the school year, on required teacher workdays, or on  
19 the day before or the day after holidays or scheduled vacation days. Teachers may  
20 transfer personal leave days between local school administrative units. The local school  
21 administrative unit shall credit a teacher who has separated from service and is  
22 reemployed within 60 months from the date of separation with all personal leave  
23 accumulated at the time of separation. Local school administrative units shall not  
24 advance personal leave. Teachers using personal leave receive full salary less the  
25 required substitute deduction.

26 (e) Teachers in Year-Round Schools. – Compensation for teachers employed in  
27 year-round schools shall be the same as teachers paid for a 10-month term, but those days  
28 may be scheduled over 12 calendar months. Annual leave, sick leave, workdays,  
29 holidays, salary, and longevity for teachers who are employed at year-round schools shall  
30 be equivalent to those of other teachers employed for the same number of months,  
31 respectively. Teachers paid for a term of 10 months in year-round schools shall receive  
32 their salary in 12 equal installments.

33 (f) Overpayment. – Each local board of education shall sustain any loss by reason  
34 of an overpayment to any teacher paid from State funds.

35 (g) Social Security. – All of the foregoing provisions of this section shall be  
36 subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount  
37 required by federal social security laws, of the compensation of each school employee  
38 covered by the Teachers' and State Employees' Retirement System or otherwise eligible  
39 for social security coverage shall be paid in each of the four quarters of the calendar year.

40 (h) Service in Armed Forces. – The State Board of Education, in fixing the State  
41 standard salary schedule of teachers as authorized by law, shall provide that teachers who  
42 entered the armed or auxiliary forces of the United States after September 16, 1940, and  
43 who left their positions for such service shall be allowed experience increments for the

1 period of such service as though the same had not been interrupted thereby, in the event  
2 such persons return to the position of teachers, principals, and superintendents in the  
3 public schools of the State after having been honorably discharged from the armed or  
4 auxiliary forces of the United States.

5 (i) Teachers Paid From Other Funds. – Every local board of education may adopt,  
6 as to teachers not paid out of State funds, a salary schedule similar to the State salary  
7 schedule, but it likewise shall recognize a difference in salaries based on different duties,  
8 training, experience, professional fitness, and continued service in the same school  
9 system. If a local board of education does not adopt a local salary schedule, the State  
10 salary schedule shall apply. No teacher shall receive a salary higher than that provided in  
11 the salary schedule, unless by action of the board of education a higher salary is allowed  
12 for special fitness, special duties, or under extraordinary circumstances.

13 Whenever a higher salary is allowed, the minutes of the board shall show what salary  
14 is allowed and the reason. A board of education may authorize the superintendent to  
15 supplement the salaries of all teachers from local funds, and the minutes of the board  
16 shall show what increase is allowed each teacher.

17 (j) Longevity Pay. – Longevity pay shall be based on the annual salary on the  
18 employee's anniversary date.

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

24 (f) G.S. 115C-272(b)(1) reads as rewritten:

25 "(1) Each local board of education shall establish a set date on which  
26 monthly salary payments to superintendents shall be made. This set pay  
27 date may differ from the end of the calendar month of service.  
28 Superintendents shall only be paid for the days employed as of the set  
29 pay date. Payment for a full month when days employed are less than a  
30 full month is prohibited as this constitutes prepayment. The daily rate of  
31 pay shall equal the number of weekdays in the pay period. Included  
32 within their term of employment shall be annual vacation leave at the  
33 same rate provided for State employees. Included within the 12 months'  
34 employment each local board of education shall designate the same or  
35 an equivalent number of legal holidays as those designated by the State  
36 Personnel Commission for State employees."

37 (g) G.S. 115C-285(b)(1) reads as rewritten:

38 "(1) Classified principals and State-allotted supervisors shall be employed  
39 for a term of 12 calendar months. Each local board of education shall  
40 establish a set date on which monthly salary payments to classified  
41 principals and State-allotted supervisors shall be made. This set pay date  
42 may differ from the end of the calendar month of service. Classified  
43 principals and State-allotted supervisors shall only be paid for the days

1 employed as of the set pay date. Payment for a full month when days  
2 employed are less than a full month is prohibited as this constitutes  
3 prepayment. The daily rate of pay shall equal the number of weekdays  
4 in the pay period. They shall earn annual vacation leave at the same rate  
5 provided for State employees. On a day that employees are required to  
6 report for a workday but pupils are not required to attend school due to  
7 inclement weather, an employee may elect not to report due to  
8 hazardous travel conditions and to take one of ~~his~~the employee's annual  
9 vacation days or to make up the day at the time agreed upon by the  
10 employee and ~~his~~the employees's immediate supervisor. They shall be  
11 provided by the board the same or an equivalent number of legal  
12 holidays as those designated by the State Personnel Commission for  
13 State employees."

14 (h) G.S. 115C-316(a)(1) reads as rewritten:

15 "(1) Employees Other than Superintendents, Supervisors and Classified  
16 Principals on an Annual Basis. – Each local board of education shall  
17 establish a set date on which monthly salary payments to employees  
18 other than superintendents, supervisors, and classified principals  
19 employed on an annual basis, shall be made. This set pay date may  
20 differ from the end of the calendar month of service. ~~These employees~~  
21 ~~shall only be paid for the days employed as of the set pay date. Payment~~  
22 ~~for a full month when days employed are less than a full month is~~  
23 ~~prohibited as this constitutes prepayment.~~ Employees may be prepaid on  
24 the monthly pay date for days not yet worked. An employee who fails  
25 to attend scheduled workdays or who has not worked the number of  
26 days for which the employee has been paid and who resigns or is  
27 dismissed shall repay to the local board any salary payments received  
28 for days not yet worked. An employee who has been prepaid and who  
29 continues to be employed by a local board but fails to attend scheduled  
30 workdays may be subject to dismissal or other appropriate discipline.  
31 The daily rate of pay shall equal the number of weekdays in the pay  
32 period. Included within their term of employment shall be annual  
33 vacation leave at the same rate provided for State employees, computed  
34 at one-twelfth (1/12) of the annual rate for state employees for each  
35 calendar month of employment. On a day that employees are required  
36 to report for a workday but pupils are not required to attend school due  
37 to inclement weather, an employee may elect not to report due to  
38 hazardous travel conditions and to take one of ~~his~~the employee's annual  
39 vacation days or to make up the day at a time agreed upon by the  
40 employee and ~~his~~the employee's immediate supervisor or principal. On  
41 a day that school is closed to employees and pupils due to inclement  
42 weather, an employee shall work on the scheduled makeup day.  
43 Included within their term of employment each local board of education



1 shall designate the same or an equivalent number of legal holidays as  
2 those designated by the State Personnel Commission for State  
3 employees."

4 (i) G.S. 115C-316(a)(2) reads as rewritten:

5 "(2) School Employees Paid on an Hourly or Other Basis. – Salary payments  
6 to employees other than those covered in G.S. 115C-272(b)(1), 115C-  
7 285(a)(1) and (2), ~~115C-302(a)(1) and (2)~~, 115C-302.1(b), and 115C-  
8 316(a)(1) shall be made at a time determined by each local board of  
9 education. Expenditures for the salary of these employees from State  
10 funds shall be within allocations made by the State Board of Education  
11 and in accordance with rules and regulations approved by the State  
12 Board of Education concerning allocations of State funds: Provided,  
13 that school employees employed for a term of 10 calendar months in  
14 year-round schools shall be paid in 12 equal installments: Provided  
15 further, that any individual school employee employed for a term of 10  
16 calendar months who is not employed in a year-round school may be  
17 paid in 12 monthly installments if the employee so requests on or before  
18 the first day of the school year. Such request shall be filed in the  
19 administrative unit which employs the employee. The payment of the  
20 annual salary in 12 installments instead of 10 shall not increase or  
21 decrease said annual salary nor in any other way alter the contract  
22 between the employee and the said administrative unit. Employees may  
23 be prepaid on the set pay date for days not yet worked. An employee  
24 who fails to attend scheduled workdays or who has not worked the  
25 number of days for which the employee has been paid and who resigns  
26 or is dismissed shall repay to the local board any salary payments  
27 received for days not yet worked. An employee who has been prepaid  
28 and who continues to be employed by a local board but fails to attend  
29 scheduled workdays may be subject to dismissal or other appropriate  
30 discipline. The daily rate of pay shall equal the number of weekdays in  
31 the pay period. Included within the term of employment shall be  
32 provided for full-time employees annual vacation leave at the same rate  
33 provided for State employees, computed at one-twelfth (1/12) of the  
34 annual rate for State employees for each calendar month of  
35 employment, to be taken under policies determined by each local board  
36 of education. On a day that employees are required to report for a  
37 workday but pupils are not required to attend school due to inclement  
38 weather, an employee may elect not to report due to hazardous travel  
39 conditions and to take one of his annual vacation days or to make up the  
40 day at a time agreed upon by the employee and his immediate  
41 supervisor or principal. On a day that school is closed to employees and  
42 pupils due to inclement weather, the employee shall work on the  
43 scheduled makeup day. Included within their term of employment, each

1 local board of education shall designate the same or an equivalent  
2 number of legal holidays occurring within the period of employment as  
3 those designated by the State Personnel Commission for State  
4 employees."

5 (j) G.S. 115C-47(5) reads as rewritten:

6 "(5) To Fix Time of Opening and Closing Schools. – The time of opening  
7 and closing the public schools shall be fixed pursuant to the provisions  
8 of ~~G.S. 115C-84(e)~~ under G.S. 115C-84.2."

9 (k) G.S. 115C-47(11) reads as rewritten:

10 "(11) To Determine the ~~Length of the School Day, the School Month and~~  
11 ~~the School Term.~~ School Calendar. – Local boards of education shall  
12 determine the school calendar under G.S. 115C-84.2. ~~length of the~~  
13 ~~school day, the school month and the school term pursuant to the~~  
14 ~~provisions of G.S. 115C-84(a) through (e).~~"

15 (l) G.S. 115C-47(21) reads as rewritten:

16 "(21) It is the duty of every local board of education to provide for the  
17 prompt monthly payment of all salaries due teachers and other  
18 school officials and employees, and of all current bills and other  
19 necessary operating expenses. All salaries and bills shall be paid as  
20 provided by law for disbursing State and local funds.

21 The local board shall determine salary schedules of employees  
22 pursuant to the provisions of G.S. 115C-273, 115C-285(b), ~~115C-~~  
23 ~~302(e), 115C-302.1(i),~~ and 115C-316(b).

24 The authority for boards of education to issue salary vouchers to all  
25 school employees, whether paid from State or local funds, shall be a  
26 monthly payroll prepared on forms approved by the State Board of  
27 Education and containing all information required by the State Board of  
28 Education. This monthly payroll shall be signed by the principal of each  
29 school."

30 (m) By October 31, 1997, the State Board of Education shall review and revise  
31 its rules, policies, and guidelines to make them consistent with this section. The State  
32 Board may use its authority under G.S. 150B-21.1 regarding the adoption of temporary  
33 rules consistent with this section.

34 (n) Of the funds appropriated to State Aid to Local School Administrative  
35 Units, the sum of ten million one hundred thousand dollars (\$10,100,000) for the 1997-98  
36 school year and the sum of eleven million four hundred thousand dollars (\$11,400,000)  
37 for the 1998-99 fiscal year shall be used as follows:

38 (1) For the 1997-98 fiscal year, local boards of education may opt to use  
39 these funds to (i) pay teachers for working on, and thereby forfeiting,  
40 up to three vacation days, in accordance with G.S. 115C-302.1(c) or  
41 (ii) to pay teachers who assist children with remedial work outside of  
42 the regular workday or the regular workweek; and

1           (2)       For the 1998-99 fiscal year, local boards of education shall use these  
2                   funds to pay teachers for working on, and thereby forfeiting, up to  
3                   five vacation days, in accordance with G.S. 115C-302.1(c).

4           (o)       This section becomes effective July 1, 1997. Local boards of education are  
5 not required to implement the provisions of G.S. 115C-84.1, as enacted in subsection (a)  
6 of this section prior to July 1, 1998. For the 1997-98 fiscal year, the provisions of G.S.  
7 115C-302.1(c), as enacted by subsection (a) of this section, that permit teachers to opt to  
8 have excess vacation leave converted to pay apply to only three vacation leave days per  
9 year and apply only if a local board of education opts to require the teachers to work on  
10 these days. For the 1998-99 fiscal year, the provisions of G.S. 115C-302.1(c), as enacted  
11 by subsection (a) of this section, that permit teachers to opt to have excess vacation leave  
12 converted to pay apply to up to five vacation leave days that the local board requires the  
13 teachers to work per year. Local school administrative units may begin planning for the  
14 implementation of this act for the 1998-99 school year on or after July 1, 1997.

## 15 16 **PART IX. COMMUNITY COLLEGES**

17  
18 Requested by: Senators Lee, Winner

### 19 **COMMUNITY COLLEGE FUNDING FLEXIBILITY**

20           Section 9. A local community college may use all State funds allocated to it,  
21 except for Literacy Funds and Funds for New and Expanding Industries, for any  
22 authorized purpose that is consistent with the college's Institutional Effectiveness Plan.  
23 Each local community college shall submit an Institutional Effectiveness Plan that  
24 indicates to the State Board of Community Colleges how the college will use this funding  
25 flexibility to meet the demands of the local community and maintain a presence in all  
26 previously funded categorical programs.

27  
28 Requested by: Senators Lee, Winner

### 29 **COMMUNITY COLLEGE TUITION AND FEE PAYMENTS**

30           Section 9.1. The General Assembly finds that the North Carolina Community  
31 College System's change from a three quarter academic year to a two semester academic  
32 year may make it difficult for students to pay all of their tuition for a semester in a single  
33 payment; therefore, the General Assembly urges the community colleges to exercise the  
34 authority granted to them under State Board of Community College rules to permit  
35 students to make their payments at prescribed intervals instead of in a lump sum.

36  
37 Requested by: Senators Lee, Winner

### 38 **ASSESSMENT OF OCCUPATIONAL EXTENSION FORMULA**

39           Section 9.2. As the State Board of Community Colleges completes Phase  
40 Three of its consultant's study on the budget formula, the State Board shall reexamine  
41 whether and the extent to which the faculty-student ratio for occupational extension  
42 programs should vary by college size. The State Board shall also consider the  
43 appropriate funding level for occupational extension programs based on analysis of cost.

1 The State Board shall report the results of its studies to the Joint Legislative  
2 Education Oversight Committee prior to April 30, 1998.

3  
4 Requested by: Senators Lee, Winner

5 **MODIFICATIONS IN THE FTE FUNDING FORMULA TO REFLECT**  
6 **FLUCTUATIONS IN ENROLLMENT**

7 Section 9.3. The State Board of Community Colleges shall study alternative  
8 methods of protecting colleges from the budgetary impact of fluctuations in enrollment.  
9 The State Board shall report to the General Assembly on its recommended budget  
10 stability proposals and on an appropriate transition period prior to April 30, 1998.

11  
12 Requested by: Senators Lee, Winner

13 **STUDENT CENSUS DATE**

14 Section 9.4. (a) The census date for reporting student membership hours for  
15 curriculum and occupational extension classes shall be at the ten percent (10%) point of  
16 the class.

17 (b) Subsection (a) of this section does not apply to courses offered on a  
18 contact-hour basis.

19  
20 Requested by: Senators Lee, Winner

21 **NEW AND EXPANDING INDUSTRY REPORT DATE MODIFIED**

22 Section 9.5. G.S. 115D-5(i) reads as rewritten:

23 "(i) The State Board of Community Colleges shall report to the Joint Legislative  
24 Education Oversight Committee on March 1 and ~~September 1~~October 1 of each year on  
25 expenditures for the New and Expanding Industry Program each fiscal year. The report  
26 shall include, for each company or individual that receives funds for New and Expanding  
27 Industry:

- 28 (1) The total amount of funds received by the company or individual;
- 29 (2) The amount of funds per trainee received by the company or  
30 individual;
- 31 (3) The amount of funds received per trainee by the community college  
32 training the trainee;
- 33 (4) The number of trainees trained by company and by community  
34 college; and
- 35 (5) The number of years the companies or individuals have been funded.

36 ~~The September 1, 1996, report shall include this information for the prior three fiscal~~  
37 ~~years."~~

38  
39 Requested by: Senator Perdue

40 **NEW AND EXPANDING INDUSTRY GUIDELINES**

41 Section 9.6. The North Carolina Community College System's New and  
42 Expanding Industry Training (NEIT) Program Guidelines, which were adopted by the

1 State Board of Community Colleges on April 18, 1997, apply to all funds appropriated  
2 for the Program after June 30, 1997.

3  
4 Requested by: Senator Plyler

5 **ESTABLISHMENT OF A NEW MULTICAMPUS COMMUNITY COLLEGE TO**  
6 **SERVE ANSON AND UNION COUNTIES AUTHORIZED**

7 Section 9.7. (a) On February 21, 1997, the State Board of Community Colleges  
8 recommended the establishment of a multicampus college whose administrative and  
9 service delivery area will be Anson County and Union County. Under the  
10 recommendation of the State Board, the structure of the Board of Trustees shall ensure  
11 equal representation to both Anson County and Union County and the new Board of  
12 Trustees shall select the name of the new college; therefore, Anson and Union Counties  
13 shall act pursuant to G.S. 115D-59 to jointly propose and submit to the State Board of  
14 Community Colleges such a contract for the establishment of the new institution to serve  
15 the multiple-county administrative area of Anson and Union Counties.

16 (b) Effective the later of July 1, 1997, and the date the State Board of Community  
17 Colleges approves the terms of the contract: (i) the new institution to serve the multiple-  
18 county administrative area of Anson and Union Counties is established and (ii) Anson  
19 Community College is abolished.

20 (c) The State Board of Community Colleges shall provide special oversight during  
21 the transition period to the new college structure.

22  
23 Requested by: Senators Lee, Winner

24 **COMMUNITY COLLEGE PROGRAM EFFICIENCY**

25 Section 9.8. The State Board of Community Colleges shall direct the  
26 community colleges to continue to review classes with low enrollment to determine  
27 whether some classes should be terminated or consolidated into other programs to  
28 increase the efficiency of the Community College System. The State Board of  
29 Community Colleges shall report to the Joint Legislative Education Oversight Committee  
30 on the results of this review by November 1, 1998, and November 1, 1999.

31  
32 Requested by: Senator Hartsell

33 **HOSPITAL-BASED NURSING PROGRAMS**

34 Section 9.9. Funds appropriated to the Department of Community Colleges for  
35 hospital-based diploma nursing programs shall be made available to both associate  
36 degree nursing programs and diploma nursing programs.

37  
38 Requested by: Senators Lee, Winner

39 **STATE BOARD OF COMMUNITY COLLEGES – FUNDS TO REWARD**  
40 **EXCELLENCE IN TEACHING**

41 Section 9.10. The State Board of Community Colleges shall develop policies  
42 for the distribution of an average one-half percent (1/2%) salary bonus for teaching  
43 faculty members, to be given to those who have demonstrated excellence in teaching.

1  
2 Requested by: Senators Lee, Winner

3 **HRD MULTI-ENTRY/MULTI-EXIT CLASSES**

4 Section 9.11. (a) The State Board of Community Colleges may allow the Human  
5 Resources Development Program to offer multi-entry/multi-exit classes for their students  
6 and to count the class hours on a contact-hour basis.

7 (b) Nothing in this section allows these classes to generate budget FTE.  
8

9 **PART X. UNIVERSITIES**

10  
11 Requested by: Senators Lee, Winner

12 **WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING**  
13 **FORMULA**

14 Section 10. Funds appropriated in this act to the Board of Governors of The  
15 University of North Carolina for continuation of financial assistance to the medical  
16 schools of Duke University and Wake Forest University shall be disbursed on  
17 certifications of the respective schools of medicine that show the number of North  
18 Carolina residents as first-year, second-year, third-year, and fourth-year students in each  
19 medical school as of November 1, 1997, and November 1, 1998. Disbursement to Wake  
20 Forest University shall be made in the amount of eight thousand dollars (\$8,000) for each  
21 medical student who is a North Carolina resident, one thousand dollars (\$1,000) of which  
22 shall be placed by the school in a fund to be used to provide financial aid to needy North  
23 Carolina students who are enrolled in the medical school. The maximum aid given to any  
24 student from this fund in a given year shall not exceed the amount of the difference in  
25 tuition and academic fees charged by the school and those charged at the School of  
26 Medicine at the University of North Carolina at Chapel Hill.

27 Disbursement to Duke University shall be made in the amount of five thousand  
28 dollars (\$5,000) for each medical student who is a North Carolina resident, five hundred  
29 dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide  
30 student financial aid to financially needy North Carolina students who are enrolled in the  
31 medical school. No individual student may be awarded assistance from this fund in  
32 excess of two thousand dollars (\$2,000) each year. In addition to this basic disbursement  
33 for each year of the biennium, a disbursement of one thousand dollars (\$1,000) shall be  
34 made for each medical student who is a North Carolina resident in the first-year, second-  
35 year, third-year, and fourth-year classes to the extent that enrollment of each of those  
36 classes exceeds 30 North Carolina students.

37 The Board of Governors shall establish the criteria for determining the  
38 eligibility for financial aid of needy North Carolina students who are enrolled in the  
39 medical schools and shall review the grants or awards to eligible students. The Board of  
40 Governors shall adopt rules for determining which students are residents of North  
41 Carolina for the purposes of these programs. The Board shall also make any regulations  
42 as necessary to ensure that these funds are used directly for instruction in the medical  
43 programs of the schools and not for religious or other nonpublic purposes. The Board

1 shall encourage the two schools to orient students toward primary care, consistent with  
2 the directives of G.S. 143-613(a). The two schools shall supply information necessary  
3 for the Board to comply with G.S. 143-613(d).

4  
5 Requested by: Senators Lee, Winner

6 **AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE**

7 Section 10.1. (a) Funds appropriated in this act to the Board of Governors of The  
8 University of North Carolina for aid to private colleges shall be disbursed in accordance  
9 with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to  
10 seven hundred fifty dollars (\$750.00) per full-time equivalent North Carolina  
11 undergraduate student enrolled at a private institution as of October 1 each year.

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

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

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

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

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

- 41 (1) The Board of Governors of The University of North Carolina, with  
42 the approval of the Office of State Budget and Management, may

1 transfer available funds to meet the needs of the programs provided  
2 by subsections (a) and (b) of this section; and

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

6 Any remaining funds shall revert to the General Fund.

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

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

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

15 (d) The State Education Assistance Authority shall document the number of full-  
16 time equivalent North Carolina undergraduate students that are enrolled in off-campus  
17 programs and the State funds collected by each institution pursuant to G.S. 116-19 for  
18 those students. The State Education Assistance Authority shall also document the  
19 number of scholarships and the amount of the scholarships that are awarded under G.S.  
20 116-19 to students enrolled in off-campus programs. An "off-campus program" is any  
21 program offered for degree credit away from the institution's main permanent campus.

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

25  
26 Requested by: Senators Lee, Winner

27 **AID TO STUDENTS ATTENDING PRIVATE COLLEGES/LEGISLATIVE**  
28 **TUITION GRANT LIMITATIONS**

29 Section 10.2. (a) No Legislative Tuition Grant funds shall be expended for a program  
30 at an off-campus site of a private institution, as defined in G.S. 116-22(1), established  
31 after May 15, 1987, unless (i) the private institution offering the program has previously  
32 notified and secured agreement from other private institutions operating degree programs  
33 in the county in which the off-campus program is located or operating in the counties  
34 adjacent to that county or (ii) the degree program is neither available nor planned in the  
35 county with the off-campus site or in the counties adjacent to that county.

36 An "off-campus program" is any program offered for degree credit away from  
37 the institution's main permanent campus.

38 (b) Any member of the armed services as defined in G.S. 116-143.3(a), abiding in  
39 this State incident to active military duty, who does not qualify as a resident for tuition  
40 purposes as defined under G.S. 116-143.1, is eligible for a Legislative Tuition Grant  
41 pursuant to this section if the member is enrolled as a full-time student. The member's  
42 Legislative Tuition Grant shall not exceed the cost of tuition less any tuition assistance  
43 paid by the member's employer.



1  
2 Requested by: Senators Lee, Winner

3 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

4 Section 10.3. G.S. 116-41.18(a) reads as rewritten:

5 "(a) Each constituent institution that receives, through private gifts and an  
6 allocation by the Board of Governors, funds for the purpose shall, under procedures  
7 established by rules of the Board of Governors and the board of trustees of the constituent  
8 institution, select a holder of the Distinguished Professorship. Once given, that  
9 designation shall be retained by the distinguished professor as long as he remains in the  
10 full-time service of the ~~institution.~~ institution as a faculty member, or for more limited  
11 lengths of time when authorized by the Board of Governors and the board of trustees at  
12 the institution when the Distinguished Professorship is originally established or vacated.  
13 When a distinguished professorship becomes vacant, it shall remain assigned to the  
14 institution and another distinguished professor shall be selected under procedures  
15 established by rules of the Board of Governors and the board of trustees of the constituent  
16 institution."  
17

18 Requested by: Senators Lee, Winner

19 **UNC EQUITY FUNDS**

20 Section 10.4. The funds appropriated to the Board of Governors of The  
21 University of North Carolina for equity funds are to address relative inequities revealed  
22 through a study of the constituent institutions in the university system. The General  
23 Assembly notes that the study dealt with equity based upon current funding from State  
24 appropriations and tuition and did not consider historical equity in funding for physical  
25 facilities or funding from non-State sources. Therefore, in making this appropriation, the  
26 General Assembly has not concluded that the funding of any institution, including  
27 specifically the historically black universities, is sufficient in light of all considerations.  
28

29 Requested by: Senators Lee, Winner

30 **MANUFACTURING EXTENSION PARTNERSHIP**

31 Section 10.5. Of the funds appropriated to the Board of Governors of The  
32 University of North Carolina, the sum of nine hundred thousand dollars (\$900,000) for  
33 the 1997-98 fiscal year shall be allocated to North Carolina State University to match  
34 additional federal funds for the Manufacturing Extension Partnership Program.  
35

36 Requested by: Senators Lee, Winner, Rand, Shaw of Cumberland

37 **MILITARY RESIDENCY/UNC TUITION**

38 Section 10.6. G.S. 116-143.3(b) reads as rewritten:

39 "(b) Any member of the armed services qualifying for admission to an institution of  
40 higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for  
41 tuition purposes under G.S. 116-143.1 shall be charged the out-of-State tuition rate;  
42 provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State  
43 tuition rate exceeds any amounts payable to the institution or the service member by the

1 service member's employer by reason of enrollment pursuant to such admission while the  
2 member is abiding in this State incident to active military duty, plus the amount that  
3 represents the percentage of the out-of-State tuition rate paid to the institution or the  
4 service member by the service member's employer multiplied by the in-State tuition rate  
5 and then subtracted from the in-State tuition rate. Any member of the armed services  
6 who does not qualify for any payment by the member's employer shall be classified as a  
7 resident for tuition purposes and shall pay the full amount of the in-State tuition rate."  
8

9 Requested by: Senators Lee, Winner

#### 10 **UNC OVERHEAD RECEIPT FLEXIBILITY**

11 Section 10.7. G.S. 116-30.2 reads as rewritten:

#### 12 **"§ 116-30.2. Appropriations to special responsibility constituent institutions.**

13 All General Fund appropriations made by the General Assembly for continuing  
14 operations of a special responsibility constituent institution of The University of North  
15 Carolina shall be made in the form of a single sum to each budget code of the institution  
16 for each year of the fiscal period for which the appropriations are being made.  
17 Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 143-23(a3) and G.S. 120-  
18 76(8), each special responsibility constituent institution may expend monies from the  
19 overhead receipts special fund budget code and the General Fund monies so appropriated  
20 to it in the manner deemed by the Chancellor to be calculated to maintain and advance  
21 the programs and services of the institutions, consistent with the directives and policies of  
22 the Board of Governors. The preparation, presentation, and review of General Fund  
23 budget requests of special responsibility constituent institutions shall be conducted in the  
24 same manner as are requests of other constituent institutions. The quarterly allotment  
25 procedure established pursuant to G.S. 143-17 shall apply to the General Fund  
26 appropriations made for the current operations of each special responsibility constituent  
27 institution. All General Fund monies so appropriated to each special responsibility  
28 constituent institution shall be recorded, reported, and audited in the same manner as are  
29 General Fund appropriations to other constituent institutions."  
30

31 Requested by: Senators Lee, Winner

#### 32 **UNC ASSISTANCE TO PUBLIC SCHOOLS**

33 Section 10.8. Funding in this act is provided to the Board of Governors of The  
34 University of North Carolina for several initiatives to work cooperatively with the public  
35 schools to improve public education in North Carolina. The Board of Governors shall  
36 redirect the funding provided for educational consortia at eight constituent institutions to  
37 these initiatives requested for the 1997-99 biennium. The Board of Governors shall  
38 redirect at least one-third of the consortia appropriations during the 1997-98 fiscal year  
39 and the balance for the 1998-99 fiscal year toward these efforts. The Board of Governors  
40 shall also reallocate sufficient funds from other resources to fully fund these initiatives  
41 for the 1997-98 fiscal year.

42 Upon request of a constituent institution with a current consortium program, the  
43 Board of Governors may direct continual funding to that program.

1  
2 Requested by: Senators Lee, Winner, Hartsell

3 **AREA HEALTH EDUCATION CENTERS FUNDING**

4 Section 10.9. Of the funds appropriated in this act to the Board of Governors  
5 of The University of North Carolina, the sum of two million seven hundred fifty thousand  
6 dollars (\$2,750,000) for the 1997-98 fiscal year and the sum of two million seven  
7 hundred fifty thousand dollars (\$2,750,000) for the 1998-99 fiscal year shall be allocated  
8 to the Area Health Education Centers programs for continuation of the restructuring of  
9 educational programs for health care professionals. Of these funds, sufficient funds shall  
10 be allocated to the Cabarrus Family Medicine Residency Program to provide assistance  
11 comparable to other family medicine residency slots for 16 residencies. The Cabarrus  
12 Family Medicine Residency Program shall provide all information required by The  
13 University of North Carolina Board of Governors to comply with the reporting  
14 requirements of G.S. 143-613.

15  
16 Requested by: Senators Lee, Winner

17 **UNC LIBRARIES FUNDING**

18 Section 10.10. Of the funds appropriated to the Board of Governors of The  
19 University of North Carolina in this act, the sum of four million dollars (\$4,000,000)  
20 shall be allocated each year of the biennium for enhancement of libraries for the  
21 constituent institutions. Of this amount, at least one million two hundred thousand  
22 dollars (\$1,200,000) each year shall be used for the development of the NC-LIVE project,  
23 a cooperative effort of The University of North Carolina, the Department of Community  
24 Colleges, and the State Library of North Carolina designed to improve access to  
25 information resources across the State and to reduce the duplication of expenditures for  
26 library resources.

27  
28 Requested by: Senators Lee, Winner

29 **COOPERATIVE EXTENSION SERVICES**

30 Section 10.11. (a) The Joint Legislative Education Oversight Committee and  
31 the Board of Governors of The University of North Carolina shall undertake a joint  
32 review and study of the role, funding, personnel resources, programs, and other aspects of  
33 the Cooperative Extension Services of The University of North Carolina given the  
34 changing nature of the agricultural base of the State.

35 (b) The study shall consider all of the following:

- 36 (1) The role of cooperative extension services in the environmental  
37 aspects of agricultural activities and other activities.  
38 (2) The reduced or increased needs for various current extension  
39 services due to changes in the State's agricultural base.  
40 (3) The top priority agricultural needs of the State and whether or not  
41 current cooperative extension services are aligned with those needs.  
42 (4) The duplication, if any, of cooperative extension services with  
43 services offered by other entities.

1 (c) The Joint Legislative Education Oversight Committee and the Board of  
2 Governors may appoint a subcommittee to work cooperatively on this study. The Chairs  
3 of the Joint Legislative Education Oversight Committee shall designate one member of  
4 the Subcommittee to serve as a cochair and the Chair of the Board of Governors shall  
5 designate one member of the Subcommittee to serve as a cochair.

6 (d) The Subcommittee shall meet at such times and places as the Subcommittee  
7 cochairs designate. The facilities of the State Legislative Building and the Legislative  
8 Office Building shall be available to the Subcommittee subject to the approval of the  
9 Legislative Services Commission. The facilities of the university system shall also be  
10 available to the Subcommittee.

11 (e) Subject to the approval of the Legislative Services Commission, the staff  
12 resources of the Legislative Services Commission shall be available to the Subcommittee  
13 without cost except for travel, subsistence, supplies, and materials. Subject to the  
14 approval of the Board of Governors, the staff resources of the Board of Governors shall  
15 also be available to the Subcommittee without cost except for travel, subsistence,  
16 supplies, and materials which shall be the expense of the Board of Governors.

17 (f) The Joint Legislative Education Oversight Committee and the Board of  
18 Governors shall report their findings to the General Assembly by May 1, 1998.

19  
20 Requested by: Senators Lee, Winner, Perdue

#### 21 **REVIEW OF LAND-USE REGULATION**

22 Section 10.12. Of the funds appropriated in this act to the Board of Governors  
23 of The University of North Carolina, the sum of seventy-five thousand dollars (\$75,000)  
24 shall be allocated for the 1997-98 fiscal year to the University of North Carolina at  
25 Chapel Hill for the Center for Urban and Regional Studies to conduct an analysis of the  
26 impact of State infrastructure programs, including funding and funding methods, on local  
27 governments. The analysis shall also consider the ability of local governments to develop  
28 and implement plans for sustainable development and to fully utilize their planning and  
29 regulatory authorities to guide development and balanced growth and how these  
30 authorities are impacted by State infrastructure decisions. The Departments of  
31 Transportation, Commerce, and Environment, Health, and Natural Resources and other  
32 State agencies shall provide assistance and information as requested and shall cooperate  
33 with the Center in conducting this analysis. The analysis shall be provided by April 30,  
34 1998, to the Office of the Governor, the Chairs of the House of Representatives and  
35 Senate Committees on Appropriations, the Environmental Review Commission, and the  
36 Joint Legislative Commission on Governmental Operations, with a copy to the Fiscal  
37 Research Division of the General Assembly.

38  
39 Requested by: Senators Lee, Winner

#### 40 **SCHOLARSHIP FUND BALANCES**

41 Section 10.13. The remaining balances in the Social Worker Education Loan  
42 Fund shall be transferred to the Nurse Scholars Scholarship Fund account to implement  
43 the budget reductions in that program.

1  
2 Requested by: Senator Perdue

3 **UNIVERSITY FIRE SAFETY COSTS LIMITED**

4 Section 10.14. G.S. 116-44.7 reads as rewritten:

5 **"§ 116-44.7. Exemption from certain fees and charges.**

6 No water system serving a residence hall or fraternity or sorority housing shall levy or  
7 collect any water-meter fee, water-hydrant fee, tap fee, or similar service fee on a  
8 residence hall or fraternity or sorority house with respect to supporting a supplemental  
9 fire safety protection system in excess of the ~~actual~~-marginal cost to the water system to  
10 support the fire safety protection system."

11  
12 Requested by: Senators Lee, Winner

13 **UNIVERSITY OF NORTH CAROLINA SYSTEM – FUNDS TO REWARD**  
14 **EXCELLENCE IN TEACHING**

15 Section 10.15. The Board of Governors of The University of North Carolina  
16 shall develop policies for the distribution of an average one-half percent (1/2%) salary  
17 bonus for teaching faculty members, to be given to those who have demonstrated  
18 excellence in teaching.

19  
20 Requested by: Senators Odom, Perdue, Plyler

21 **UNC OVERHEAD RECEIPTS**

22 Section 10.16. Of the funds appropriated to the Board of Governors of The  
23 University of North Carolina in this act, the sum of seven million seven hundred  
24 thousand six hundred fifty-nine dollars (\$7,700,659) shall be allocated for the 1998-99  
25 fiscal year to the campuses of the constituent institutions to replace the ten percent (10%)  
26 of overhead receipts that currently support General Fund budget code operations.

27  
28 Requested by: Senators Odom, Perdue, Plyler

29 **UNC MANAGEMENT FLEXIBILITY**

30 Section 10.17. G.S. 116-30.3 reads as rewritten:

31 **"§ 116-30.3. Reversions.**

32 (a) Of the General Fund current operations appropriations credit balance  
33 remaining at the end of each fiscal year in each budget code of a special responsibility  
34 constituent institution, except for the budget code of the Area Health Education Centers  
35 of the University of North Carolina at Chapel Hill, any amount greater than ~~two percent~~  
36 ~~(2%)~~-one percent (1%) of the General Fund appropriation for that fiscal year may be  
37 carried forward by the institution to the next fiscal year and may be used for one-time  
38 expenditures that will not impose additional financial obligations on the State. Of the  
39 General Fund current operations appropriations credit balance remaining in the budget  
40 code of the Area Health Education Centers of the University of North Carolina at Chapel  
41 Hill, any amount greater than ~~one percent (1%)~~-one-half percent (0.5%) of the General  
42 Fund appropriation for that fiscal year may be carried forward in that budget code to the  
43 next fiscal year and may be used for one-time expenditures that will not impose

1 additional financial obligations on the State. However, the amount carried forward under  
2 this section shall not exceed two and one-half percent (2 1/2%) of the General Fund  
3 appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25,  
4 shall establish the General Fund current operations credit balance remaining in each  
5 budget code of each institution.

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

8 (1) An institution, other than the Area Health Education Centers of the  
9 University of North Carolina, does not revert at least ~~two percent~~  
10 ~~(2%)~~ one percent (1%) of its General Fund current operations credit  
11 balance remaining in each budget code of that institution, or

12 (2) The Area Health Education Centers of the University of North  
13 Carolina at Chapel Hill does not revert at least ~~one percent (1%)~~  
14 one-half percent (0.5%) of its General Fund current operations credit  
15 balance remaining in its budget code.

16 However, if the Board of Governors finds that the low reversion rate is due to adverse  
17 and unforeseen conditions, the Board may allow the institution to remain a special  
18 responsibility constituent institution for one year to come into conformity with this  
19 section. The Board may make this exception only one time for any special responsibility  
20 constituent institution, and shall report these exceptions to the Joint Legislative  
21 Commission on Governmental Operations."  
22

23 Requested by: Senators Odom, Perdue, Plyler

#### 24 **ACADEMIC ENHANCEMENT FUNDS CLARIFICATION**

25 Section 10.18. In Section 16.11 of Chapter 18 of the Session Laws for the  
26 1996 Second Extra Session, the Board of Governors of The University of North Carolina  
27 were directed to allocate, for the 1996-97 fiscal year the amount of seventeen million  
28 eight hundred thousand dollars (\$17,800,000) between the constituent institutions  
29 classified as Research University I campuses in direct proportion to the funds to be raised  
30 on each campus for the 1996-97 fiscal year from the tuition increases authorized under  
31 Section 15.15 of Chapter 507 of the 1995 Session Laws.

32 There has been no directive as to which budget codes the funds should be  
33 credited. Since these funds are part of the continuation budget, each campus shall have  
34 the authority to allocate these funds among the General Fund budget codes on that  
35 campus based on campus priorities.  
36

37 Requested by: Senators Odom, Perdue, Plyler

#### 38 **JOHN KERNODLE FUND**

39 Section 10.19. Funds in the amount of one million dollars (\$1,000,000) are  
40 appropriated in this act to the Board of Governors of The University of North Carolina  
41 for the Lineberger Cancer Center at the University of North Carolina at Chapel Hill for  
42 cancer research. These funds are appropriated in memory of Dr. John Kernodle.  
43

**PART XI. DEPARTMENT OF HUMAN RESOURCES**

Requested by: Senator Martin of Guilford

**DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CLARIFICATION**

Section 11. For the 1997-99 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from the State hospitals, the Division of Medical Assistance shall deposit funds appropriated for the Medicaid program in a sum equal to the federal share of the Disproportionate Share Payments as nontax revenue. Any of these funds that are not appropriated by the General Assembly shall be reserved by the State Controller for future appropriation.

Requested by: Senator Martin of Guilford

**DHR STUDY OF PROVIDER REIMBURSEMENT RATES/REPORT**

Section 11.1. The Department of Human Resources shall study the process of setting provider reimbursement rates for programs within the Department. This study shall include an analysis of the following:

- (1) The extent to which rates are set in accordance with clear policies that are consistent across program lines;
- (2) Whether there are general principles and assumptions that are or should be included in all rate-setting processes;
- (3) The policies and economic and accounting principles that are utilized for setting rates in each program and a comparison of those policies and principles between the programs; and
- (4) How any differences between programs in setting rates are justified.

The Department shall provide a status report before February 1, 1998, and a final report to the members of the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division before February 1, 1999.

Requested by: Senator Martin of Guilford

**RECEIPTS OF FEDERAL FUNDS FOR EMERGENCY ASSISTANCE**

Section 11.2. The Department of Human Resources may use up to five million dollars (\$5,000,000) of federal Title IV-Emergency Assistance funds, received after June 30, 1997, as reimbursement for retroactive claims filed for defined critical needs. The remainder of these funds shall be placed in a reserve for appropriation by the General Assembly. The Department may submit a prioritized list of recommended needs for these funds to the cochairs of the Senate and House Appropriations Subcommittees on Human Resources for consideration.

Requested by: Senator Perdue

**SET STANDARDS FOR HEALTH CARE QUALITY/ACCESS**

Section 11.3. The Secretary of the Department of Human Resources shall set standards to ensure that the citizens of the State have access to quality and affordable health care.

1  
2 Requested by: Senator Martin of Guilford

3 **TRANSFER OF CERTAIN FUNDS AUTHORIZED**

4 Section 11.4. In order to assure maximum utilization of funds in county  
5 departments of social services, county or district health agencies, and area mental health,  
6 developmental disabilities, and substance abuse services authorities, the Director of the  
7 Budget may transfer excess funds appropriated to a specific service, program, or fund,  
8 whether specified service in a block grant plan or General Fund appropriation, into  
9 another service, program, or fund for local services within the budget of the respective  
10 State agency.

11  
12 Requested by: Senators Plyler, Perdue, Odom

13 **PROCEDURE FOR AWARD OF HUMAN SERVICES GRANTS**

14 Section 11.5. Of the funds appropriated in this act to the Department of  
15 Human Resources, the sum of four million dollars (\$4,000,000) for the 1997-98 fiscal  
16 year shall be used for grants for programs that provide services to older adults, adults  
17 with disabilities, at-risk children, and youth and families. The Secretary of the  
18 Department of Human Resources shall establish a process for the review, evaluation, and  
19 consideration of applications for these grants.

20 In awarding grants, the Secretary shall consider the merits of the program, the  
21 benefit to the State and local communities of the program, and the cost of the program.  
22 Prior to awarding grants, the Secretary shall consult with the Joint Legislative  
23 Commission on Governmental Operations.

24  
25 Requested by: Senator Martin of Guilford

26 **MEDICAID**

27 Section 11.6. (a) Funds appropriated in this act for services provided in accordance  
28 with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy  
29 and the medically needy. Funds appropriated for these services shall be expended in  
30 accordance with the following schedule of services and payment bases. All services and  
31 payments are subject to the language at the end of this subsection.

32 Services and payment bases:

- 33 (1) Hospital-Inpatient - Payment for hospital inpatient services will be  
34 prescribed in the State Plan as established by the Department of  
35 Human Resources. Administrative days for any period of  
36 hospitalization shall be limited to a maximum of three days.
- 37 (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a  
38 prospective reimbursement plan as established by the Department of  
39 Human Resources.
- 40 (3) Nursing Facilities - Payment for nursing facility services will be  
41 prescribed in the State Plan as established by the Department of  
42 Human Resources. Nursing facilities providing services to Medicaid  
43 recipients who also qualify for Medicare, must be enrolled in the



- 1 Medicare program as a condition of participation in the Medicaid  
2 program. State facilities are not subject to the requirement to enroll  
3 in the Medicare program.
- 4 (4) Intermediate Care Facilities for the Mentally Retarded - As  
5 prescribed in the State Plan as established by the Department of  
6 Human Resources.
- 7 (5) Drugs - Drug costs as allowed by federal regulations plus a  
8 professional services fee per month excluding refills for the same  
9 drug or generic equivalent during the same month. Reimbursement  
10 shall be available for up to six prescriptions per recipient, per month,  
11 including refills. Payments for drugs are subject to the provisions of  
12 subsection (h) of this section and to the provisions at the end of  
13 subsection (a) of this section, or in accordance with the State Plan  
14 adopted by the Department of Human Resources consistent with  
15 federal reimbursement regulations. Payment of the professional  
16 services fee shall be made in accordance with the State Plan adopted  
17 by the Department of Human Resources, consistent with federal  
18 reimbursement regulations. The professional services fee shall be  
19 five dollars and sixty cents (\$5.60) per prescription. Adjustments to  
20 the professional services fee shall be established by the General  
21 Assembly.
- 22 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists,  
23 Certified Nurse Midwife Services - Fee schedules as developed by  
24 the Department of Human Resources. Payments for dental services  
25 are subject to the provisions of subsection (g) of this section.
- 26 (7) Community Alternative Program, EPSDT Screens - Payment to be  
27 made in accordance with rate schedule developed by the Department  
28 of Human Resources.
- 29 (8) Home Health and Related Services, Private Duty Nursing, Clinic  
30 Services, Prepaid Health Plans, Durable Medical Equipment -  
31 Payment to be made according to reimbursement plans developed by  
32 the Department of Human Resources.
- 33 (9) Medicare Buy-In - Social Security Administration premium.
- 34 (10) Ambulance Services - Uniform fee schedules as developed by the  
35 Department of Human Resources.
- 36 (11) Hearing Aids - Actual cost plus a dispensing fee.
- 37 (12) Rural Health Clinic Services - Provider-based, reasonable cost;  
38 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 39 (13) Family Planning - Negotiated rate for local health departments. For  
40 other providers - see specific services, for instance, hospitals,  
41 physicians.
- 42 (14) Independent Laboratory and X-Ray Services - Uniform fee  
43 schedules as developed by the Department of Human Resources.

- 1 (15) Optical Supplies - One hundred percent (100%) of reasonable  
2 wholesale cost of materials.
- 3 (16) Ambulatory Surgical Centers - Payment as prescribed in the  
4 reimbursement plan established by the Department of Human  
5 Resources.
- 6 (17) Medicare Crossover Claims - An amount up to the actual  
7 coinsurance or deductible or both, in accordance with the State Plan,  
8 as approved by the Department of Human Resources.
- 9 (18) Physical Therapy and Speech Therapy - Services limited to EPSDT  
10 eligible children. Payments are to be made only to qualified  
11 providers at rates negotiated by the Department of Human  
12 Resources.
- 13 (19) Personal Care Services - Payment in accordance with the State Plan  
14 approved by the Department of Human Resources.
- 15 (20) Case Management Services - Reimbursement in accordance with the  
16 availability of funds to be transferred within the Department of  
17 Human Resources.
- 18 (21) Hospice - Services may be provided in accordance with the State  
19 Plan developed by the Department of Human Resources.
- 20 (22) Other Mental Health Services - Unless otherwise covered by this  
21 section, coverage is limited to agencies meeting the requirements of  
22 the rules established by the Commission for Mental Health,  
23 Developmental Disabilities, and Substance Abuse Services, and  
24 reimbursement is made in accordance with a State Plan developed  
25 by the Department of Human Resources not to exceed the upper  
26 limits established in federal regulations.
- 27 (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible  
28 Children - Reimbursement in accordance with the State Plan  
29 approved by the Department of Human Resources.
- 30 (24) Health Insurance Premiums - Payments to be made in accordance  
31 with the State Plan adopted by the Department of Human Resources  
32 consistent with federal regulations.
- 33 (25) Medical Care/Other Remedial Care - Services not covered elsewhere  
34 in this section include related services in schools; health professional  
35 services provided outside the clinic setting to meet maternal and  
36 infant health goals; and services to meet federal EPSDT mandates.  
37 Services addressed by this paragraph are limited to those prescribed  
38 in the State Plan as established by the Department of Human  
39 Resources. Providers of these services shall be certified as meeting  
40 program standards of the Department of Environment, Health, and  
41 Natural Resources.
- 42 (26) Pregnancy Related Services - Covered services for pregnant women  
43 shall include nutritional counseling, psychosocial counseling, and

1 predelivery and postpartum home visits by maternity care  
 2 coordinators and public health nurses.

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

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

13 (b) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five  
 14 percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all  
 15 applicable services listed in this section.

16 (c) Copayment for Medicaid Services. The Department of Human Resources may  
 17 establish copayment up to the maximum permitted by federal law and regulation.

18 (d) Medicaid and Aid to Families With Dependent Children Income Eligibility  
 19 Standards. The maximum net family annual income eligibility standards for Medicaid  
 20 and Aid to Families with Dependent Children, and the Standard of Need for Aid to  
 21 Families with Dependent Children shall be as follows:

	<u>Categorically Needy</u>		<u>Medically Needy</u>	
	Family	Standard	AFDC Payment	
<u>Size</u>	<u>of Need</u>	<u>Level*</u>	<u>AA, AB, AD*</u>	
26	1	\$ 4,344	\$ 2,172	\$ 2,900
27	2	5,664	2,832	3,800
28	3	6,528	3,264	4,400
29	4	7,128	3,564	4,800 5 7,776 3,888 5,200
30	6	8,376	4,188	5,600
31	7	8,952	4,476	6,000
32	8	9,256	4,680	6,300

33 \*Aid to Families With Dependent Children (AFDC); Aid to the Aged (AA); Aid to the  
 34 Blind (AB); and Aid to the Disabled (AD).

35  
 36 The payment level for Aid to Families With Dependent Children shall be fifty percent  
 37 (50%) of the standard of need.

38 These standards may be changed with the approval of the Director of the  
 39 Budget with the advice of the Advisory Budget Commission.

40 (e) All Elderly, Blind, and Disabled Persons who receive Supplemental  
 41 Security Income are eligible for Medicaid coverage.

42 (f) ICF and ICF/MR Work Incentive Allowances. The Department of Human  
 43 Resources may provide an incentive allowance to Medicaid-eligible recipients of ICF and

1 ICF/MR facilities who are regularly engaged in work activities as part of their  
2 developmental plan and for whom retention of additional income contributes to their  
3 achievement of independence. The State funds required to match the federal funds that  
4 are required by these allowances shall be provided from savings within the Medicaid  
5 budget or from other unbudgeted funds available to the Department. The incentive  
6 allowances may be as follows:

7  
8 Monthly Net Wages Monthly Incentive Allowance

9 \$1.00 to \$100.99 Up to \$50.00

10 \$101.00 - \$200.99 \$80.00

11 \$201.00 to \$300.99 \$130.00

12 \$301.00 and greater \$212.00.

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

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

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

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

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

41 (k) Cost Containment Programs. The Department of Human Resources,  
42 Division of Medical Assistance, may undertake cost containment programs including

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

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

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

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

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

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

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

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

22 (5) The Department of Human Resources shall provide Medicaid coverage  
23 for adoptive children with special or rehabilitative needs regardless of  
24 the adoptive family's income.

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

31 (o) The Department of Human Resources may use Medicaid funds budgeted  
32 from program services to support the cost of administrative activities to the extent that  
33 these administrative activities produce a net savings in services requirements.  
34 Administrative initiatives funded by this section shall be first approved by the Office of  
35 State Budget and Management.

36 (p) The Department of Human Resources shall submit a monthly status report  
37 on expenditures for acute care and long-term care services to the Fiscal Research  
38 Division and to the Office of State Budget and Management. This report shall include an  
39 analysis of budgeted versus actual expenditures for eligibles by category and for long-  
40 term care beds. In addition, the Department shall revise the program's projected spending  
41 for the current fiscal year and the estimated spending for the subsequent fiscal year on a  
42 quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal

1 Research Division and to the Office of State Budget and Management no later than the  
2 third Thursday of the month.

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

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

12 (s) The Division of Medical Assistance, Department of Human Resources,  
13 may administer Medicaid estate recovery mandated by the Omnibus Budget  
14 Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5  
15 using temporary rules pending approval of final rules promulgated pursuant to Chapter  
16 150B of the General Statutes.

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

24  
25 Requested by: Senator Martin of Guilford

#### 26 **NONMEDICAID REIMBURSEMENT CHANGES**

27 Section 11.7. Providers of medical services under the various State programs,  
28 other than Medicaid, offering medical care to citizens of the State shall be reimbursed at  
29 rates no more than those under the North Carolina Medical Assistance Program.  
30 Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults  
31 with mental retardation and mental illness may be paid an additional incentive payment  
32 not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

33 The Department of Human Resources may reimburse hospitals at the full  
34 prospective per diem rates without regard to the Medical Assistance Program's annual  
35 limits on hospital days. When the Medical Assistance Program's per diem rates for  
36 inpatient services and its interim rates for outpatient services are used to reimburse  
37 providers in non-Medicaid medical service programs, retroactive adjustments to claims  
38 already paid shall not be required.

39 Notwithstanding the provisions of paragraph one, the Department of Human  
40 Resources may negotiate with providers of medical services under the various  
41 Department of Human Resources programs, other than Medicaid, for rates as close as  
42 possible to Medicaid rates for the following purposes: contracts or agreements for  
43 medical services and purchases of medical equipment and other medical supplies. These

1 negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible  
 2 patients, residents, and clients who require such services which cannot be provided when  
 3 limited to the Medicaid rate.

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

7		Medical Eye	All	
8	<u>Family Size</u>	<u>Care Adults</u>	<u>Rehabilitation</u>	<u>Other</u>
9	1	\$ 4,860	\$ 8,364	\$ 4,200
10	2	5,940	10,944	5,300
11	3	6,204	13,500	6,400
12	4	7,284	16,092	7,500
13	5	7,824	18,648	7,900
14	6	8,220	21,228	8,300
15	7	8,772	21,708	8,800
16	8	9,312	22,220	9,300

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

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

31	<u>Income</u>	<u>State Participation</u>	<u>Client Participation</u>
32	(% of poverty)		
33	0-100%	100%	0%
34	101-120%	95%	5%
35	121-140%	85%	15%
36	141-160%	75%	25%
37	161-180%	65%	35%
38	181-200%	55%	45%
39	201-220%	45%	55%
40	221-240%	35%	65%
41	241-260%	25%	75%
42	261-280%	15%	85%
43	281-300%	5%	95%

1 301%-over 0% 100%.

2  
3 The Department of Human Resources shall contract at, or as close as possible  
4 to, Medicaid rates for medical services provided to residents of State facilities of the  
5 Department.

6  
7 Requested by: Senator Martin of Guilford

8 **MEDICAID TRUST FUND**

9 Section 11.8. Notwithstanding any prohibition which may exist in G.S. 143-  
10 23.2, the Department may use up to forty million dollars (\$40,000,000) during fiscal year  
11 1997-98 from the fund established pursuant to G.S. 143-23.2 to support Medicaid  
12 program expenditures, if available in the fund.

13  
14 Requested by: Senator Martin of Guilford

15 **MEDICAID GROWTH REDUCTION**

16 Section 11.9. (a) The Department of Human Resources shall, in consultation  
17 with Medicaid providers where appropriate, develop and implement, as feasible, a plan  
18 that is designed to reduce the growth of Medicaid to eight percent (8%) by the year 2001.  
19 However, the Department shall not eliminate categories of eligibles or categories of  
20 services to achieve this reduction unless the General Assembly identifies specific  
21 categories of eligibles or categories of services that it wants eliminated.

22 (b) The Division of Medical Assistance, Department of Human Resources shall  
23 report quarterly to the Joint Legislative Commission on Governmental Operations  
24 beginning October 1, 1997, on the Department's actions to develop and implement, as  
25 feasible, a plan that is designed to reduce Medicaid growth to eight percent (8%) by the  
26 year 2001, including the contents of the plan as they are developed, and shall, by April 1,  
27 1998, report to the General Assembly on the Department's plan, what actions the  
28 Department intends to take to implement the plan, and any specific reductions proposed  
29 for fiscal year 1998-99.

30  
31 Requested by: Senator Martin of Guilford

32 **DHR EMPLOYEES/IN-KIND MATCH**

33 Section 11.10. Notwithstanding the limitations of G.S. 143B-139.4, the  
34 Secretary of the Department of Human Resources may assign employees of the Office of  
35 Rural Health and Resource Development to serve as in-kind match to nonprofit  
36 corporations working to establish health care programs that will improve health care  
37 access while controlling costs.

38  
39 Requested by: Senator Martin of Guilford

40 **FIRE PROTECTION REVOLVING LOAN FUND**

41 Section 11.11. Proceeds from the Fire Protection Revolving Loan Fund,  
42 established pursuant to G.S. 122A-5.13, may be used to provide staff support to the North  
43 Carolina Housing Finance Agency for loan processing and to the Department of Human



1 Resources for review and approval of fire protection plans and inspection of fire  
2 protection systems.

3  
4 Requested by: Senator Martin of Guilford

5 **MEDICAL DATA PROCESSING FUNDS**

6 Section 11.12. The sum of one hundred fifty thousand dollars (\$150,000) for  
7 each of the 1997-98 and 1998-99 fiscal years is transferred from the Insurance  
8 Regulatory Fund established pursuant to G.S. 58-6-25 to the Division of Facility  
9 Services, Department of Human Resources, to certify statewide data processors pursuant  
10 to Article 11A of Chapter 131E of the General Statutes, to purchase data from statewide  
11 data processors, and to process and analyze the data.

12  
13 Requested by: Senator Martin of Guilford

14 **SENIOR CENTER OUTREACH**

15 Section 11.13. (a) Funds appropriated to the Department of Human Resources,  
16 Division of Aging, for the 1997-99 fiscal biennium, shall be used by the Division of  
17 Aging to enhance senior center programs as follows:

18 (1) To test "satellite" services provided by existing senior centers to  
19 unserved or underserved areas; or

20 (2) To provide start-up funds for new senior centers.

21 All of these funds shall be allocated by October 1 of each fiscal year.

22 (b) Prior to funds being allocated pursuant to this section for start-up funds for  
23 a new senior center, the county commissioners of the county in which the new center will  
24 be located shall:

25 (1) Formally endorse the need for a center;

26 (2) Formally agree on the sponsoring agency for the center; and

27 (3) Make a formal commitment to use local funds to support the ongoing  
28 operation of the center.

29 (c) State funding shall not exceed ninety percent (90%) of reimbursable costs.

30  
31 Requested by: Senators Perdue, Martin of Guilford

32 **SENIOR CENTER FUNDS**

33 Section 11.14. Of the funds appropriated in this act to the Department of  
34 Human Resources, the sum of seven hundred fifty thousand dollars (\$750,000) for the  
35 1997-98 fiscal year shall be used to support existing senior centers and to assist in the  
36 development of new senior centers. The Department shall allocate funds equally among  
37 senior centers throughout the State as determined by the Division of Aging. Expenditures  
38 of State funds for senior centers shall not exceed ninety percent (90%) of all funds  
39 expended for this purpose.

40  
41 Requested by: Senator Martin of Guilford

42 **IN-HOME AND CAREGIVER SUPPORT FUNDS**

1 Section 11.15. Of the funds appropriated in this act to the Department of  
2 Human Resources, Division of Aging, the sum of four million dollars (\$4,000,000) for  
3 the 1997-98 fiscal year and the sum of four million dollars (\$4,000,000) for the 1998-99  
4 fiscal year shall be allocated via the Home and Community Care Block Grant for home  
5 and community care services for older persons who are not eligible for Medicaid and who  
6 are on the waiting list for these services. These funds shall be used only for direct  
7 services. Service recipients shall pay for services based on their income in accordance  
8 with G.S. 143B-181.1(a)(10).

9  
10 Requested by: Senator Martin of Guilford

11 **ADULT CARE HOMES REIMBURSEMENT RATE/ADULT CARE HOMES**  
12 **ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS**

13 Section 11.16. (a) The eligibility of Special Assistance recipients residing in  
14 adult care homes on August 1, 1995, shall not be affected by an income reduction in the  
15 Special Assistance eligibility criteria resulting from adoption of the Rate Setting  
16 Methodology Report and Related Services, providing these recipients are otherwise  
17 eligible. The maximum monthly rate for these residents in adult care home facilities shall  
18 be nine hundred seventy-five dollars (\$975.00) per month for ambulatory residents and  
19 one thousand seventeen dollars (\$1,017) per month for semiambulatory residents.

20 (b) Effective August 1, 1995, the State shall pay fifty percent (50%) and the  
21 county shall pay fifty percent (50%) of the nonfederal costs of Medicaid services paid to  
22 adult care home facilities. As Medicaid personal care requirements increase, the county  
23 matching share shall be capped until it equals fifteen percent (15%) of the nonfederal  
24 Medicaid personal care requirements.

25 (c) Effective July 1, 1997, the maximum monthly rate for residents in adult care  
26 home facilities shall be eight hundred ninety-three dollars (\$893.00) per month per  
27 resident.

28 (d) Effective July 1, 1998, the maximum monthly rate for residents in adult care  
29 home facilities shall be nine hundred fifteen dollars (\$915.00) per month per resident.

30  
31 Requested by: Senator Martin of Guilford

32 **ADULT CARE HOMES REPORT**

33 Section 11.17. Beginning October 1, 1997, the Department of Human  
34 Resources shall report annually, on the previous fiscal year's activities, to the Joint  
35 Legislative Commission on Governmental Operations and the Fiscal Research Division  
36 of the Legislative Services Office as to the status of the following:

- 37 (1) Rate-setting and financing of adult care homes, including the use of  
38 Medicaid funds for personal care services;
- 39 (2) Quality assurance and enhancement of adult care homes, including case  
40 management for residents with special care needs, monitoring of adult  
41 care home facilities, and specialized training of direct care staff; and
- 42 (3) The process of the evaluation of the Adult Care Home Financing and  
43 Quality Assurance Program.

1  
2 Requested by: Senator Martin of Guilford

3 **FOSTER CARE ASSISTANCE PAYMENTS**

4 Section 11.18. The maximum rates for State participation in the foster care  
5 assistance program are established on a graduated scale as follows:

- 6 (1) \$315.00 per child per month for children aged birth through 5;  
7 (2) \$365.00 per child per month for children aged 6 through 12; and  
8 (3) \$415.00 per child per month for children aged 13 through 18.

9 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

10  
11 Requested by: Senator Martin of Guilford

12 **AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE**  
13 **FAMILY FUNDS**

14 Section 11.19. (a) In addition to providing board payments to foster and  
15 adoptive families of HIV-infected children, as prescribed in Chapter 324 of the 1995  
16 Session Laws, any additional funds remaining that were appropriated in Chapter 324 of  
17 the 1995 Session Laws for this purpose shall be used as follows:

- 18 (1) To provide medical training in avoiding HIV transmission in the home;  
19 and  
20 (2) To transfer funds to the Department of Environment, Health, and  
21 Natural Resources to create three social work positions within the  
22 Department of Environment, Health, and Natural Resources, for the  
23 eastern part of North Carolina to enable the case managing of families  
24 with HIV-infected children so that the children and the parents get  
25 access to medical care and so that child protective services issues are  
26 addressed rapidly and effectively. The three positions shall be  
27 medically based and located:  
28 a. One in the northeast, covering Northampton, Hertford, Halifax,  
29 Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck,  
30 Bertie, Wilson, Edgecombe, and Nash Counties;  
31 b. One in the central east, covering Martin, Pitt, Washington,  
32 Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and  
33 Pamlico Counties; and  
34 c. One in the southeast, covering New Hanover, Robeson,  
35 Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen,  
36 and Columbus Counties.

37 (b) The maximum rates for State participation in HIV foster care and adoptions  
38 assistance are established on a graduated scale as follows:

- 39 (1) \$800.00 per month per child with indeterminate HIV status;  
40 (2) \$1,000 per month per child confirmed HIV-infected, asymptomatic;  
41 (3) \$1,200 per month per child confirmed HIV-infected, symptomatic; and  
42 (4) \$1,600 per month per child terminally ill with complex care needs.  
43

1 Requested by: Senator Martin of Guilford

2 **ADOPTION ASSISTANCE PAYMENTS**

3 Section 11.20. The maximum rates for State participation in the adoption  
4 assistance program are established on a graduated scale as follows:

- 5 (1) \$315.00 per child per month for children aged birth through 5;  
6 (2) \$365.00 per child per month for children aged 6 through 12; and  
7 (3) \$415.00 per child per month for children aged 13 through 18.

8

9 Requested by: Senator Martin of Guilford

10 **CHILD PROTECTIVE SERVICES**

11 Section 11.21. (a) The funds appropriated in this act to the Department of  
12 Human Resources, Division of Social Services, for the 1997-99 fiscal biennium for Child  
13 Protective Services shall be allocated to county departments of social services based upon  
14 a formula which takes into consideration the number of Child Protective Services cases  
15 and the number of Child Protective Services workers necessary to meet recommended  
16 standards adopted by the North Carolina Association of County Directors of Social  
17 Services.

18 (b) Funds allocated under subsection (a) of this section shall be used by county  
19 departments of social services for carrying out investigations of reports of child abuse or  
20 neglect or for providing protective or preventive services in which the department  
21 confirms abuse, neglect, or dependency.

22

23 Requested by: Senator Martin of Guilford

24 **FOOD STAMP ELECTRONIC BENEFITS TRANSFER FUNDS**  
25 **SPECIFICATIONS**

26 Section 11.22. The Controller's Office, Department of Human Resources, shall  
27 manage the development, implementation, and operation of the Food Stamp Electronic  
28 Benefits Transfer Program (EBT).

29

30 Requested by: Senator Martin of Guilford

31 **WORK FIRST FRAUD CONTROL PROGRAM/DEBT SETOFF/CLIENT**  
32 **PROTECTION**

33 Section 11.23. (a) The Department of Human Resources, immediately, shall  
34 implement the Work First Fraud Control Program pursuant to 45 C.F.R. 235.112 as those  
35 regulations were in effect on July 1, 1996.

36 (b) The Department of Human Resources shall award incentive bonuses to each  
37 county for the county's efforts in collecting AFDC and Work First cash assistance  
38 overpayments made as a result of intentional false statements, intentional  
39 misrepresentation, intentional failure to disclose a material fact, or inadvertent household  
40 error.

- 41 (1) For collections relative to AFDC or Work First cash assistance  
42 payments made prior to January 1, 1997, the incentive bonus shall equal  
43 one-half of the State's distributive share of the total AFDC and Work

1 First cash assistance benefits recouped for the reasons described in this  
2 subsection. The bonus on these recoupments shall be paid at the time of  
3 collection.

- 4 (2) For collections relative to Work First cash assistance benefits paid on or  
5 after January 1, 1997, the incentive bonus shall equal sixty percent  
6 (60%) of the total amount recouped for the reasons described in this  
7 subsection. The amount collected by each county during the State fiscal  
8 year shall be totaled, and an amount equal to sixty percent (60%) of  
9 total collections by a county shall be added to the county's Work First  
10 block grant for the next fiscal year.

11 (c) The Department of Human Resources, Division of Social Services, shall  
12 develop and implement a statewide automated system to track AFDC and Work First  
13 cash assistance fraud claims and collect these claims by any appropriate method,  
14 including debt setoff pursuant to Chapter 105A of the General Statutes.

15 (d) The Department of Human Resources shall ensure that persons charged with,  
16 or suspected of, AFDC or Work First fraud not be subjected to any of the following:

- 17 (1) Coercion;  
18 (2) Discrimination in targeting persons for civil action or criminal  
19 prosecution; or  
20 (3) Civil investigation or civil action without being (i) properly informed as  
21 to those matters that might arise out of the investigation or action that  
22 might result in criminal prosecution and (ii) in such a case, being  
23 properly advised of their right not to incriminate themselves.  
24

25 Requested by: Senator Martin of Guilford

#### 26 **ANNUAL REPORT ON CARING PROGRAM FOR CHILDREN, INC.**

27 Section 11.24. The Caring Program for Children, Inc., shall report annually by  
28 May 1 to the Joint Legislative Commission on Governmental Operations and to the Fiscal  
29 Research Division of the Legislative Services Office, beginning with May 1, 1998, on its  
30 program for providing health care for children.

31 This report shall include the number of children served and the cost per child  
32 served.  
33

34 Requested by: Senator Martin of Guilford

#### 35 **REVIEW OF AUTOMATED COLLECTION AND TRACKING SYSTEM**

36 Section 11.25. The Information Resource Management Commission shall  
37 conduct a quarterly review of the Automated Collection and Tracking System (ACTS)  
38 project being developed by the Department of Human Resources. The review shall  
39 include an analysis of the problems encountered and progress achieved, identify critical  
40 issues to be resolved, and estimate the final cost and date of completion. The review  
41 shall be submitted through the Office of the State Controller to the Chairs of the House  
42 and Senate Appropriations Committees, the Chairs of the House and Senate Human  
43 Resources Appropriations Subcommittees, the State Budget Director, and to the Director

1 of the Fiscal Research Division of the Legislative Services Office no later than the last  
2 day of each quarter.

3  
4 Requested by: Senator Martin of Guilford

5 **MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS**

6 Section 11.26. Funds received by the Department of Human Resources from  
7 the tax levied on mixed beverages under G.S. 18B-804(b)(8) shall be expended by the  
8 Department of Human Resources as prescribed by G.S. 18B-805(h). These funds shall be  
9 allocated to the area mental health programs for substance abuse services.

10  
11 Requested by: Senator Martin of Guilford

12 **PHYSICIAN SERVICES**

13 Section 11.27. With the approval of the Office of State Budget and  
14 Management, the Department of Human Resources may use funds appropriated in this  
15 act for across-the-board salary increases and performance pay to offset similar increases  
16 in the costs of contracting with private and independent universities for the provision of  
17 physician services to clients in facilities operated by the Division of Mental Health,  
18 Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done  
19 in the same manner as is currently done with constituent institutions of The University of  
20 North Carolina.

21  
22 Requested by: Senator Martin of Guilford

23 **CLINICAL SOCIAL WORKER EXEMPTION**

24 Section 11.28. Section 8 of Chapter 732 of the 1991 Session Laws reads as  
25 rewritten:

26 "Section 8. This act becomes effective January 1, 1992. G.S. 90B-10(b)(3)a. is  
27 repealed effective January 1, ~~1997-1999.~~ The term of the additional Board position for  
28 clinical social worker created by this act shall commence upon the expiration of the term  
29 of the public member whose term expires first."

30  
31 Requested by: Senator Martin of Guilford

32 **LIABILITY INSURANCE**

33 Section 11.29. The Secretary of the Department of Human Resources, the  
34 Secretary of the Department of Environment, Health, and Natural Resources, and the  
35 Secretary of the Department of Correction may provide medical liability coverage not to  
36 exceed one million dollars (\$1,000,000) per incident on behalf of employees of the  
37 Departments licensed to practice medicine or dentistry, all licensed physicians who are  
38 faculty members of The University of North Carolina who work on contract for the  
39 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services  
40 for incidents that occur in Division programs, and on behalf of physicians in all residency  
41 training programs from The University of North Carolina who are in training at  
42 institutions operated by the Department of Human Resources. This coverage may  
43 include commercial insurance or self-insurance and shall cover these individuals for their

1 acts or omissions only while they are engaged in providing medical and dental services  
2 pursuant to their State employment or training.

3 The coverage provided under this section shall not cover any individual for any  
4 act or omission that the individual knows or reasonably should know constitutes a  
5 violation of the applicable criminal laws of any state or the United States, or that arises  
6 out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to  
7 willful or wanton negligence.

8 The coverage provided pursuant to this section shall not require any additional  
9 appropriations and shall not apply to any individual providing contractual service to the  
10 Department of Human Resources, the Department of Environment, Health, and Natural  
11 Resources, or the Department of Correction, with the exception that coverage may  
12 include physicians in all residency training programs from The University of North  
13 Carolina who are in training at institutions operated by the Department of Human  
14 Resources and licensed physicians who are faculty members of The University of North  
15 Carolina who work for the Division of Mental Health, Developmental Disabilities, and  
16 Substance Abuse Services.

17  
18 Requested by: Senator Martin of Guilford

#### 19 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

20 Section 11.30. To ensure uniformity in rates charged to area programs and  
21 funded with State-allocated resources, the Division of Mental Health, Developmental  
22 Disabilities, and Substance Abuse Services of the Department of Human Resources may  
23 require a private agency that provides services under contract with two or more area  
24 programs, except for hospital services that have an established Medicaid rate, to complete  
25 an agencywide uniform cost finding in accordance with G.S. 122C-143.2(a) and G.S.  
26 122C-147.2. The resulting cost shall be the maximum included for the private agency in  
27 the contracting area program's unit cost finding.

28  
29 Requested by: Senator Martin of Guilford

#### 30 **CAROLINA ALTERNATIVES**

31 Section 11.31. The Department of Human Resources shall move forward with  
32 planning, readiness assessments, and other necessary activities to be able to expand the  
33 Carolina Alternatives Child and Adult Waiver Pilot Program. Prior to actual  
34 implementation of additional covered populations, the Department shall:

- 35 (1) Receive approval from the Health Care Financing Administration;
- 36 (2) Continue the 10-site Carolina Alternatives pilot programs;
- 37 (3) Make a determination that each area authority that is going to participate  
38 in the pilot has the capacity to implement the waiver;
- 39 (4) Obtain certification from the Office of State Budget and Management  
40 that expansion of Carolina Alternatives is budget neutral, excluding the  
41 payment of claims related to the transition from fee-for-service to  
42 Medicaid managed care, and authorization from the Office of State  
43 Budget and Management to proceed with the pilot;

- 1 (5) Evaluate capitation rates to determine if they are adequate to provide
- 2 appropriate services;
- 3 (6) Develop five-year cost estimates for Carolina Alternatives; and
- 4 (7) Submit a progress report to the 1997 General Assembly, Regular
- 5 Session 1998, and the Fiscal Research Division not later than May 1,
- 6 1998.

7  
8 Requested by: Senator Martin of Guilford

9 **WILLIE M.**

10 Section 11.32. (a) Legislative Findings. – The General Assembly finds:

- 11 (1) That there is a need in North Carolina to provide appropriate treatment
- 12 and education programs to children under the age of 18 who suffer from
- 13 emotional, mental, or neurological handicaps accompanied by violent or
- 14 assaultive behavior;
- 15 (2) That children meeting these criteria have been identified as a Class in
- 16 the case of **Willie M., et al. v. Hunt, et al.**, formerly **Willie M., et al. v.**
- 17 **Martin, et al.** [**Willie M.**, 3:79 CV 294-MU (Western District)]; and as
- 18 defined in G.S. 122C-3(13a) as Eligible Assaultive and Violent
- 19 Children]; and
- 20 (3) That these children have a need for a variety of services, in addition to
- 21 those normally provided, that may include, but are not limited to,
- 22 residential treatment services, educational services, and independent
- 23 living arrangements.

24 (b) Funds appropriated by the General Assembly to the Department of Human

25 Resources for serving members of the Willie M. Class shall be expended only for

26 programs serving members of the Willie M. Class identified in **Willie M., et al. v. Hunt,**

27 **et al.**, formerly **Willie M., et al. v. Martin, et al.**, [or as Eligible Assaultive and Violent

28 Children] including evaluations of potential Class members. The Department shall

29 reallocate these funds among services to Willie M. Class members during the year as it

30 deems advisable in order to use the funds efficiently in providing appropriate services to

31 Willie M. Class members.

32 (c) Funds for Department of Public Education. – Funds appropriated to the

33 Department of Public Education in this act for members of the Willie M. Class are to

34 establish a supplemental reserve fund to serve only members of the Class identified in

35 **Willie M., et al. v. Hunt, et al.**, formerly **Willie M., et al. v. Martin, et al.**, [or as

36 Eligible Assaultive and Violent Children]. These funds shall be allocated by the State

37 Board of Education to the local education agencies to serve those Class members who

38 were not included in the regular average daily membership and the census of children

39 with special needs, and to provide the additional program costs which exceed the per

40 pupil allocation from the State Public School Fund and other State and federal funds for

41 children with special needs.

42 (d) The Department of Human Resources shall continue to implement its

43 prospective unit cost reimbursement system and shall ensure that unit cost rates reflect



1 reasonable costs by conducting cost center service type rate comparisons and cost  
2 centerline item budget reviews as may be necessary, and based upon these reviews and  
3 comparisons, the Department shall reduce and/or cap rates to programs which are  
4 significantly higher than those rates paid to other programs for the same service.

5 Any exception to this requirement shall be approved by the Director of the  
6 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services,  
7 and shall be reported in the Department's annual joint report to the Governor and the  
8 General Assembly and in any periodic report the Department may make to the Joint  
9 Legislative Commission on Governmental Operations.

10 (d1) The Department of Human Resources shall implement a process to  
11 review those cases for whom treatment has been recommended whose annual cost is  
12 anticipated to be in excess of one hundred fifty percent (150%) of the average annual per  
13 client expenditure of the previous fiscal year and shall take actions to reduce these  
14 treatment costs where appropriate.

15 (e) The Department of Human Resources and the Department of Public  
16 Education shall submit, by May 1 of each fiscal year, a joint report to the Governor and  
17 the General Assembly on the progress achieved in serving members of the Willie M.  
18 Class. The report shall include the following unduplicated data for each county: (i) the  
19 number of children nominated for the Willie M. Class; (ii) the number of children  
20 actually identified as members of the Class in each county; (iii) the number of children  
21 served as members of the Class in each county; (iv) the number of children who remain  
22 unserved or for whom additional services are needed in order to be determined to be  
23 appropriately served; (v) the types and locations of treatment and education services  
24 provided to Class members; (vi) the cost of services, by type, to members of the Class  
25 and the maximum and minimum rates paid to providers for each service; (vii) the number  
26 of cases whose treatment costs were in excess of one hundred fifty percent (150%) of the  
27 average annual per client expenditure; (viii) information on the impact of treatment and  
28 education services on members of the Class; (ix) an explanation of, and justification for,  
29 any waiver of departmental rules that affect the Willie M. program; and (x) the total State  
30 funds expended, by program, on Willie M. Class members, other than those funds  
31 specifically appropriated for the Willie M. programs and services.

32 (e1) From existing funds available to it, the Department of Human Resources  
33 shall begin a process to document and assess individual Class members' progress through  
34 the continuum of services. Standardized measures of functioning shall be administered  
35 periodically to each member of the Class, and the information generated from these  
36 measures shall be used to assess client progress and program effectiveness.

37 (f) The Departments of Human Resources and Public Education shall provide  
38 periodic reports of expenditures and program effectiveness on behalf of the Willie M.  
39 Class to the Fiscal Research Division. As part of these reports, the Departments shall  
40 explain measures they have taken to control and reduce program expenditures.

41 (g) In fulfilling the responsibilities vested in it by the Constitution of North  
42 Carolina, the General Assembly finds:

1 (1) That the General Assembly has evaluated the known needs of the State  
2 and has endeavored to satisfy those needs in comparison to their social  
3 and economic priorities; and

4 (2) That the funds appropriated will enable the development and  
5 implementation of placement and services for the Class members in  
6 **Willie M., et al. v. Hunt, et al.**, formerly **Willie M., et al. v. Martin, et**  
7 **al.**, [or Eligible Assaultive and Violent Children] within a reasonable  
8 period of time considered within the context of the needs of the Class  
9 members, the other needs of the State, and the resources available to the  
10 State.

11 (h) The General Assembly supports the efforts of the responsible officials and  
12 agencies of the State to meet the requirements of the court order in **Willie M., et al. v.**  
13 **Hunt, et al.**, formerly **Willie M., et al. v. Martin, et al.**, [**Willie M.**, 3:79 CV 294-MU  
14 (Western District)]. To ensure that Willie M. Class members are appropriately served, no  
15 State funds shall be expended on placement and services for Willie M. Class members  
16 except:

17 (1) Funds specifically appropriated by the General Assembly for the  
18 placement and services of Willie M. Class members; and

19 (2) Funds for placement and services for which Willie M. Class members  
20 are otherwise eligible.

21 This limitation shall not preclude the use of unexpended Willie M. funds from prior fiscal  
22 years to cover current or future needs of the Willie M. program subject to approval by the  
23 Director of the Budget. These Willie M. expenditures shall not be subject to the  
24 requirements of G.S. 143-18.

25 (i) Notwithstanding any other provision of law, if the Department of Human  
26 Resources determines that a local program is not providing appropriate services to  
27 members of the Class identified in **Willie M., et al. v. Hunt, et al.**, formerly **Willie M.,**  
28 **et al. v. Martin, et al.**, [or as Eligible Assaultive and Violent Children] the Department  
29 may ensure the provision of these services through contracts with public or private  
30 agencies or by direct operation by the Department of these programs.

31  
32 Requested by: Senator Martin of Guilford

33 **THOMAS S.**

34 Section 11.33. (a) Funds appropriated to the Department of Human Resources in  
35 this act for the 1997-98 fiscal year and the 1998-99 fiscal year for members of the  
36 Thomas S. Class as identified in **Thomas S., et al. v. Britt**, formerly **Thomas S., et al. v.**  
37 **Flaherty**, [**Thomas S. et al. v. Bruton**, Thomas S., C-C-82-0418M (Western District)]  
38 shall be expended only for programs serving Thomas S. Class members or for services  
39 for those clients who are:

40 (1) Adults with mental retardation, or who have been treated as if they had  
41 mental retardation, who were admitted to a State psychiatric hospital on  
42 or after March 22, 1984, and who are included on the Division of

- 1 Mental Health, Developmental Disabilities, and Substance Abuse  
2 Services' official list of prospective Class members;
- 3 (2) Adults with mental retardation who have a documented history of State  
4 psychiatric hospital admissions regardless of admission date and who,  
5 without funding support, have a good probability of being readmitted to  
6 a State psychiatric hospital;
- 7 (3) Adults with mental retardation who have never been admitted to a State  
8 psychiatric hospital but who have a documented history of behavior  
9 determined to be of danger to self or others that results in referrals for  
10 inpatient psychiatric treatment and who, without funding support, have a  
11 good probability of being admitted to a State psychiatric hospital; or
- 12 (4) Adults who are included on the Division of Mental Health,  
13 Developmental Disabilities, and Substance Abuse Services' official list  
14 of prospective Class members and have yet to be confirmed as Class  
15 members, who currently reside in the community, and who have a good  
16 probability of being admitted to a facility licensed as a "home for the  
17 aged and disabled".

18 No more than five percent (5%) of the funds appropriated in this act for the Thomas S.  
19 program shall be used for clients meeting subdivisions (2), (3), or (4) of this subsection.

20 (b) To ensure that Thomas S. Class members are appropriately served, no State  
21 funds shall be expended on placement and services for Thomas S. Class members except:

- 22 (1) Funds specifically appropriated by the General Assembly for the  
23 placement and services of Thomas S. Class members; and
- 24 (2) Funds for placement and services for which Thomas S. Class members  
25 are otherwise eligible.

26 (b1) Thomas S. funds may be expended to support services for Thomas S.  
27 Class members in adult care homes when the service needs of individual Class members  
28 in these homes cannot be met via the established maximum adult care home rate.

29 (c) The Department of Human Resources shall continue to implement a  
30 prospective unit cost reimbursement system and shall ensure that unit cost rates reflect  
31 reasonable costs by conducting cost center service type rate comparisons and cost center  
32 line item budget reviews as may be necessary.

33 (d) The Department of Human Resources shall submit by April 1 of each fiscal  
34 year a report to the General Assembly on the progress achieved in serving members and  
35 prospective members of the Thomas S. Class. The report shall include the following:

- 36 (1) The number of Thomas S. clients confirmed as Class members;
- 37 (2) The number of prospective Class members evaluated;
- 38 (3) The number of prospective Class members awaiting evaluation;
- 39 (4) The number of Class members or prospective Class members added in  
40 the preceding 12 months due to their admission to a State psychiatric  
41 hospital;
- 42 (5) A description of the types of treatment services provided to Class  
43 members; and

1 (6) An analysis of the use of funds appropriated for the Class.

2 (e) Notwithstanding any other provision of law, if the Department of Human  
3 Resources determines that a local program is not providing minimally adequate services  
4 to members of the Class identified in **Thomas S., et al. v. Britt**, formerly **Thomas S., et**  
5 **al. v. Flaherty**, [**Thomas S. et al. v. Bruton**, Thomas S. C-C-82-0418M (Western  
6 District)] or does not show a willingness to do so, the Department may ensure the  
7 provision of these services through contracts with public or private agencies or by direct  
8 operation by the Department of these programs.

9  
10 Requested by: Senator Martin of Guilford

#### 11 **THOMAS S. LAWSUIT COMPLIANCE**

12 Section 11.34. The Department of Justice and the Department of Human  
13 Resources shall pursue all administrative and legal options necessary to enable the State  
14 to resolve the Thomas S. lawsuit in the most expeditious and cost-effective manner  
15 possible and to seek elimination of the necessity for oversight by a special master.

16  
17 Requested by: Senator Martin of Guilford

#### 18 **THOMAS S./COST CONTAINMENT MEASURES**

19 Section 11.35. The Department of Human Resources and area mental health  
20 programs shall implement cost containment measures to ensure that programs serving  
21 Thomas S. Class members are as cost-effective as possible and also meet the requirement  
22 to provide minimally adequate treatment.

23  
24 Requested by: Senator Martin of Guilford

#### 25 **THOMAS S. FUNDS**

26 Section 11.36. If Thomas S. funds are not sufficient, then notwithstanding  
27 G.S. 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the  
28 Department in an amount not to exceed seven million six hundred thousand dollars  
29 (\$7,600,000).

30  
31 Requested by: Senator Martin of Guilford

#### 32 **EXTEND ADMINISTRATION OF TRI-COUNTY AREA AUTHORITY**

33 Section 11.37. Notwithstanding S.L. 1997-7, the Department of Human  
34 Resources may continue to administer the services of the Tri-County Area Authority in  
35 accordance with G.S. 122C-125.1 on behalf and at the request of the board of county  
36 commissioners of one or more of the counties that constitute the Tri-County Area  
37 Authority. The extension granted under this section shall be for a period not to exceed  
38 three calendar months commencing July 1, 1997, and shall be for the sole purpose of  
39 allowing one or more of the counties that constitute the Tri-County Area Authority to  
40 assess the feasibility of combining with another existing area authority.

41  
42 Requested by: Senator Martin of Guilford

#### 43 **LIMITATION ON USE OF SPECIAL ALZHEIMER'S UNIT IN WILSON**

1 Section 11.38. The Special Alzheimer's Unit established in Wilson by funds  
2 appropriated in Chapter 507 of the 1995 Session Laws shall serve only those clients who  
3 cannot be served by any similar private facility.

4  
5 Requested by: Senator Martin of Guilford

6 **ALLOCATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES,**  
7 **AND SUBSTANCE ABUSE EXPANSION FUNDS**

8 Section 11.39. Of the funds appropriated in this act to the Division of Mental  
9 Health, Developmental Disabilities, and Substance Abuse Services, Department of  
10 Human Resources, for expansion of mental health, developmental disabilities, and  
11 substance abuse programs and services, other than crisis services, those funds needed by  
12 area authorities for "catch-up" purposes shall be allocated pursuant to the Incentive  
13 Method adopted by the Mental Health Study Commission and presented in the  
14 Commission's Report to the 1996 General Assembly.

15  
16 Requested by: Senator Martin of Guilford

17 **SUBSTANCE ABUSE PROGRAM GRANTS**

18 Section 11.40. (a) Of the funds appropriated in this act to the Department of  
19 Human Resources, the sum of one million two hundred fifty thousand dollars  
20 (\$1,250,000) for the 1997-98 fiscal year shall be placed in a Reserve for Substance Abuse  
21 Treatment Programs. The Secretary of Human Resources shall conduct a study of the  
22 various substance abuse treatment programs in the State, including but not limited to: The  
23 Pavilion Foundation in Polk County, Amythest in Charlotte, Charter Pines in Charlotte,  
24 Bethel Colony in Lenoir, and Appalachian Hall in Asheville. The Secretary may use  
25 funds from the Reserve to allocate grants-in-aid to those substance abuse programs that  
26 the Secretary determines to be working most efficiently and effectively. The Secretary  
27 shall also study whether the State should subsidize the treatment of persons covered  
28 under the Teachers' and State Employees' Comprehensive Major Medical Plan in those  
29 substance abuse facilities that are working efficiently and effectively, and may allocate  
30 up to two hundred fifty thousand dollars (\$250,000) of the funds allocated to the Reserve  
31 under this subsection for the 1997-98 fiscal year to subsidize the treatment in those  
32 facilities determined by the Secretary to be working efficiently and effectively.

33 (b) The Secretary shall report to the Joint Legislative Commission on  
34 Governmental Operations on the findings of his studies and on the grants-in-aid allocated  
35 under this section.

36  
37 Requested by: Senator Martin of Guilford

38 **EARLY INTERVENTION FUNDING**

39 Section 11.41 Of the funds appropriated in this act to the Department of  
40 Human Resources, Division of Mental Health, Developmental Disabilities, and Substance  
41 Abuse Services, the sum of two million seven hundred thousand dollars (\$2,700,000) for  
42 the 1997-98 fiscal year and the sum of two million seven hundred thousand dollars  
43 (\$2,700,000) for the 1998-99 fiscal year shall be allocated based on a plan developed in

1 consultation with the affected divisions within the Department and the North Carolina  
2 Interagency Coordinating Council to meet the needs of those children who are on the  
3 waiting list for early intervention services.

4  
5 Requested by: Senator Martin of Guilford

6 **ANNUAL EVALUATION OF WILDERNESS CAMP, COACH MENTOR**  
7 **TRAINING, AND GOVERNOR'S ONE-ON-ONE PROGRAMS**

8 Section 11.42. The Department of Human Resources shall conduct an annual  
9 evaluation of the Wilderness Camp, Coach Mentor Training, and Governor's One-on-One  
10 Programs. The results of the evaluation shall be submitted to the Joint Legislative  
11 Commission on Governmental Operations no later than October 1 of each year covering  
12 the program for the prior fiscal year. In conducting the evaluation, among other things,  
13 the focus shall be on directing youth toward long-term positive and productive  
14 noncriminal behavior. The review shall be qualitative and quantitative.

15  
16 Requested by: Senator Martin of Guilford

17 **DYS TRAINING SCHOOLS/STUDENT EVALUATIONS**

18 Section 11.43. The Department of Human Resources shall take immediate  
19 steps to ensure that multidisciplinary diagnoses and evaluations, as provided for in G.S.  
20 115C-113, are made on all students in training schools operated by the Division of Youth  
21 Services and that the requisite resources and services are provided for all DYS training  
22 school students who are identified as children with special needs. The Department may  
23 use funds available to provide evaluations, resources, and services, but shall not reduce  
24 current DYS services. Lapsed salary funds shall not be used to create new permanent  
25 positions.

26  
27 Requested by: Senator Martin of Guilford

28 **COMMUNITY-BASED ALTERNATIVES PARTICIPATION**

29 Section 11.44. County governments participating in the Community-Based  
30 Alternatives Program shall certify annually to the Division of Youth Services,  
31 Department of Human Resources, that Community-Based Alternatives Aid to Counties  
32 shall not be used to duplicate or supplant other programs within the county.

33  
34 Requested by: Senator Martin of Guilford

35 **S.O.S. AND FAMILY RESOURCE CENTER GRANT PROGRAMS**  
36 **ADMINISTRATIVE COST LIMITS**

37 Section 11.45. (a) Of the funds appropriated to the Department of Human  
38 Resources in this act, not more than three hundred fifty thousand dollars (\$350,000) for  
39 the 1997-98 fiscal year and not more than three hundred fifty thousand dollars (\$350,000)  
40 for the 1998-99 fiscal year may be used to administer the S.O.S. Program, to provide  
41 technical assistance to applicants and to local S.O.S. programs, and to evaluate the local  
42 S.O.S. programs. The Department may contract with appropriate public or nonprofit  
43 agencies to provide the technical assistance, including training and related services.

1 (b) Of the funds appropriated in this act to the Department of Human Resources  
2 for the Family Resource Center Grant Program, the Department may use up to two  
3 hundred fifty thousand dollars (\$250,000) in each fiscal year to administer the Program.

4  
5 Requested by: Senator Martin of Guilford

6 **FAMILY SUPPORT/DEAF AND HARD OF HEARING SERVICES CONTRACT**

7 Section 11.46. Of the funds appropriated in this act to the Division of Services  
8 for the Deaf and Hard of Hearing, Department of Human Resources, for family support  
9 services, the sum of five hundred three thousand two hundred thirty-eight dollars  
10 (\$503,238) for the 1997-98 fiscal year and the sum of five hundred three thousand two  
11 hundred thirty-eight dollars (\$503,238) for the 1998-99 fiscal year shall be used to  
12 contract with a private, nonprofit corporation licensed to do business in North Carolina to  
13 perform those services, including family support and advocacy services as well as  
14 technical assistance to professionals who work with families of hearing-impaired  
15 children.

16  
17 Requested by: Senators Martin of Guilford, Winner, Lee

18 **IMPLEMENT ABC'S PLAN FOR RESIDENTIAL SCHOOLS**

19 Section 11.47. (a) The Department of Human Resources shall plan to  
20 implement the State Board of Education's ABC's Plan for all of its residential schools  
21 where children are in attendance for more than 120 days a year. The ABC's Plan shall be  
22 implemented for the 1998-99 school year, if possible.

23 (b) The State Board of Education shall assist the Department of Human  
24 Resources with the implementation. The Department of Human Resources and the State  
25 Board of Education shall:

- 26 (1) Identify any policy or technical reason this accountability model cannot  
27 be adopted in the residential schools.
- 28 (2) Develop accountability standards for each residential school, including  
29 baseline data for these standards. Accountability standards shall also be  
30 developed to measure improvements in performance among the  
31 nondiploma bound students attending the residential schools.
- 32 (3) Determine the feasibility of implementing these accountability standards  
33 in the 1998-99 school year and propose a phase-in approach, if  
34 necessary.
- 35 (4) Define the strategies and consequences for State intervention in low-  
36 performing residential schools.
- 37 (5) Review the site-based management practices within the State Board of  
38 Education which, if implemented in the Department of Human  
39 Resources, should result in improved student performance.

40 The State Board of Education and the Department of Human Resources shall  
41 report jointly on their progress toward implementation in an interim report to the Joint  
42 Legislative Education Oversight Committee by October 1, 1997, and with a final report  
43 to that Committee by April 1, 1998.

1 (c) In addition to the implementation of the ABC's Plan in the Department of  
2 Human Resources' residential schools, the State Board of Education and the Department  
3 of Human Resources shall study and report on the following issues:

- 4 (1) Mandatory accreditation and dual certification of teachers in the  
5 residential schools.  
6 (2) Comparison of the staffing and financial resources available to serve  
7 special needs children in local education authorities versus residential  
8 schools (excluding the residential cost component).  
9 (3) Alignment of the Department of Human Resources' curricula with the  
10 State Board of Education's high school vocational educational  
11 curriculum, including opportunities for the residential schools to  
12 participate in the Tech Prep program with the community colleges.  
13 (4) Strategies for developing select residential schools as resource centers to  
14 local educational authorities in serving their special needs children.  
15

16 Requested by: Senator Martin of Guilford

#### 17 **DIVISION OF SERVICES FOR BLIND/PERFORMANCE AUDIT**

18 Section 11.48. The Office of the State Auditor shall conduct a performance  
19 audit of the Division of Services for the Blind in the Department of Human Resources, to  
20 include the Governor Morehead School. The performance audit shall address, but not be  
21 limited to, the financial management of the Division. The Office of the State Auditor  
22 shall submit the results of the performance audit to the cochairs of the Senate and House  
23 Appropriations Subcommittees on Human Resources by January 1, 1998.  
24

25 Requested by: Senator Martin of Guilford

#### 26 **SERVICES FOR BLIND/EXTENDED SERVICE PROVIDER POSITIONS**

27 Section 11.49. Of the funds appropriated in this act to the Department of  
28 Human Resources, Division of Services for the Blind, the sum of two hundred fifty  
29 thousand dollars (\$250,000) in each fiscal year of the 1997-99 biennium shall be used to  
30 maintain extended service provider positions at local, nonprofit supported employment  
31 programs.  
32

33 Requested by: Senator Martin of Guilford

#### 34 **GOVERNOR MOREHEAD SCHOOL/TEXTBOOK FUNDS**

35 Section 11.50. Of the funds appropriated in this act to the Division of Services  
36 for the Blind, the sum of twelve thousand four hundred eight dollars (\$12,408) for the  
37 1997-98 fiscal year and the sum of twelve thousand four hundred eight dollars (\$12,408)  
38 for the 1998-99 fiscal year shall be used to increase funding for textbooks or for adaptive  
39 technology, or both, for student education at the Governor Morehead School. Funds for  
40 this purpose shall be part of the Division's continuation budget request.  
41

42 Requested by: Senator Martin of Guilford



1 **REIMBURSEMENT AND COMPENSATION OF MEMBERS OF THE NORTH**  
2 **CAROLINA VOCATIONAL REHABILITATION ADVISORY COUNCIL, THE**  
3 **STATEWIDE INDEPENDENT LIVING COUNCIL, AND THE COMMISSION**  
4 **FOR THE BLIND**

5 Section 11.51. Notwithstanding G.S. 138-5(a)(1), those members of the North  
6 Carolina Vocational Rehabilitation Advisory Council, the Statewide Independent Living  
7 Council, and the Commission for the Blind who are unemployed or who shall forfeit  
8 wages from other employment to attend council or commission meetings or to perform  
9 related duties, may receive compensation not to exceed fifty dollars (\$50.00) a day for  
10 attending these meetings or for performing related duties, as authorized in sections 105  
11 and 705 of P.L. 102-569, the Rehabilitation Act of 1973, 42 U.S.C. § 701, et seq., as  
12 amended. This compensation is instead of the compensation specified in G.S. 138-  
13 5(a)(1). Reimbursement for subsistence and travel expenses is as specified in G.S. 138-5.  
14

15 Requested by: Senator Martin of Guilford

16 **CHILD CARE SUBSIDIES**

17 Section 11.52. (a) The maximum gross annual income for initial eligibility,  
18 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%)  
19 of the State median income, adjusted for family size.

20 (b) Parents who receive child care subsidy to work, look for work, attend work-  
21 related training or education activities, or meet the special developmental needs of their  
22 child, shall share in the cost of child care. No fees shall be charged to the client when  
23 child care services are provided to the individuals in the following circumstances:

- 24 (1) When children are receiving child care services in conjunction with  
25 protective services as described in 10 NCAC 35E.0106, up to a  
26 maximum of 12 months from the time protective services are initiated;
- 27 (2) When child care services are provided as a support to a child receiving  
28 Child Welfare Services as described in the North Carolina Division of  
29 Social Services Family Services Manual, Volume 1, Chapter II; or
- 30 (3) When a child with no income is living with someone other than the  
31 child's biological or adoptive parent or is living with someone who does  
32 not have court-ordered financial responsibility.

33 (c) Fees shall be established based on a percent of gross family income and  
34 adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

39 Local departments of social services shall apply this new fee schedule to recipients at the  
40 next eligibility review on or after the effective date of this section.

41 (d) Rules for the monthly schedule of payments for the purchase of child care  
42 services for low-income children shall be established by the Social Services Commission  
43 pursuant to G.S. 143-153(8)(a) in accordance with the following requirements:

- 1 (1) For child care facilities as defined in G.S. 110-86(3) in which fewer  
2 than fifty percent (50%) of the enrollees are subsidized by State or  
3 federal funds, the State shall continue to pay the same fee paid by  
4 private paying parents for a child in the same age group in the same  
5 facility.
- 6 (2) "AA"licensed centers which are certified as developmental day centers  
7 by the Division of Mental Health, Developmental Disabilities, and  
8 Substance Abuse Services receive one hundred ten percent (110%) of  
9 the market rate or the rate they charge private paying parents, whichever  
10 is lower, for typically developing children.
- 11 (3) The monthly schedule of payments for the purchase of child care  
12 services for low-income children from providers who have fifty percent  
13 (50%) or more children receiving child care subsidized with State or  
14 federal funds include:
- 15 a. Provision of payment rates for child care that are tied to the  
16 provider's regulatory status as follows:
- 17 1. Registered homes and "A"licensed centers receive the  
18 market rate or the rate they charge their private paying  
19 parents, whichever is lower;
- 20 2. "AA"licensed centers receive one hundred ten percent  
21 (110%) of the market rate or the rate they charge their  
22 private paying parents, whichever is lower; and
- 23 3. Unregistered providers receive fifty percent (50%) of the  
24 market rate or the rate they charge their private paying  
25 parents, whichever is lower.
- 26 b. Provision of payment rates for child care providers in counties  
27 who do not have at least 75 children in each age group for center-  
28 based and home-based care as follows:
- 29 1. Payment rates shall be set at the statewide market rate for  
30 registered homes and "A"licensed centers.
- 31 2. If it can be demonstrated that the application of the  
32 statewide market rate to a county with fewer than 75  
33 children in each age group is lower than the county market  
34 rate and would inhibit the ability of the county to purchase  
35 child care for low-income children, then the county  
36 market rate may be applied.
- 37 (e) Payment rates described in sub-subdivision (3)a. of subsection (d) of this  
38 section shall be applied to all licensed child care centers, including Head Start Wrap  
39 Around, that have fifty percent (50%) or more of enrolled children receiving child care  
40 subsidies, and to registered family child care homes and unregulated providers that enroll  
41 subsidized children.
- 42 (f) A market rate shall be calculated for facilities and homes for each county  
43 and for each age group or age category of enrollees and shall be representative of fees

1 charged to unsubsidized private paying parents for each age group of enrollees within the  
2 county. The Division of Child Development shall also calculate a statewide market rate  
3 for each age category. The Division of Child Development may also calculate regional  
4 market rates for each age group and age category.

5 (g) Facilities licensed pursuant to Article 7 of Chapter 110 of the General  
6 Statutes may participate in the program that provides for the purchase of care in child  
7 care facilities for minor children of needy families. No separate licensing requirements  
8 shall be used to select facilities to participate. In addition, child care facilities shall be  
9 required to meet any additional applicable requirements of federal law or regulations.

10 Child care homes as defined in G.S. 110-86(4) from which the State purchases  
11 child care services shall meet the standards established by the Child Day Care  
12 Commission pursuant to G.S. 110-101 and G.S. 110-105.1 and any additional  
13 requirements of State law or federal law or regulations. Child care arrangements exempt  
14 from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall  
15 meet the requirements established by other State law and by the Social Services  
16 Commission.

17 County departments of social services or other local contracting agencies shall  
18 not use a provider's failure to comply with requirements in addition to those specified in  
19 this subsection as a condition for reducing the provider's subsidized child care rate.

20  
21 Requested by: Senator Martin of Guilford

#### 22 **CHILD CARE ALLOCATION FORMULA**

23 Section 11.53. (a) To simplify current child care allocation methodology and  
24 more equitably distribute State child care funds, the Department of Human Resources  
25 shall apply the following allocation formula to all noncategorical federal and State child  
26 care funds used to pay the costs of necessary child care for minor children of needy  
27 families:

- 28 (1) One-third of budgeted funds shall be distributed according to the  
29 county's population in relation to the total population of the State;
- 30 (2) One-third of the budgeted funds shall be distributed according to the  
31 number of children under 6 years of age in a county who are living in  
32 families whose income is below the State poverty level in relation to the  
33 total number of children under 6 years of age in the State in families  
34 whose income is below the poverty level; and
- 35 (3) One-third of budgeted funds shall be distributed according to the  
36 number of working mothers with children under 6 years of age in a  
37 county in relation to the total number of working mothers with children  
38 under 6 years of age in the State.

39 (b) A county's initial allocation shall not be less than that county's total  
40 expenditures for both FSA and non-FSA child care in fiscal year 1995-96.

41  
42 Requested by: Senator Martin of Guilford

#### 43 **CHILD CARE FUNDS MATCHING REQUIREMENT**

1 Section 11.54. No local matching funds may be required by the Department of  
2 Human Resources as a condition of any locality's receiving any State child care funds  
3 appropriated by this act unless federal law requires such a match.  
4

5 Requested by: Senator Martin of Guilford

6 **CHILD DAY CARE REVOLVING LOAN FUND**

7 Section 11.55. Notwithstanding any law to the contrary, funds budgeted for  
8 the Child Day Care Revolving Loan Fund may be transferred to and invested by the  
9 financial institution contracted to operate the Fund. The principal and any income to the  
10 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for  
11 borrowers, pay the contractor's cost of operating the Fund, or to pay the Department's  
12 cost of administering the program.  
13

14 Requested by: Senator Martin of Guilford

15 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**  
16 **PROGRAM**

17 Section 11.56. (a) The General Assembly finds that it is essential to continue  
18 developing comprehensive programs that provide high quality early childhood education  
19 and development services locally for children and their families. The General Assembly  
20 intends to expand the Early Childhood Education and Development Initiatives Program  
21 (the "Program" ) in a manner which ensures quality assurance and performance-based  
22 accountability for the Program.

23 (b) Notwithstanding any provision of Part 10B of Article 3 of Chapter 143B of  
24 the General Statutes or any other provision of law or policy, the Department of Human  
25 Resources and the North Carolina Partnership for Children, Inc., jointly shall continue to  
26 implement the recommendations contained in the Smart Start Performance Audit  
27 prepared pursuant to Section 27A(1)b. of Chapter 324 of the 1995 Session Laws, as  
28 modified by Section 24.29 of Chapter 18 of the Session Laws, Second Extra Session  
29 1996. The North Carolina Partnership for Children, Inc., shall continue to report  
30 quarterly to the Joint Legislative Commission on Governmental Operations on its  
31 progress toward full implementation of the modified audit recommendations.

32 (c) The Joint Legislative Commission on Governmental Operations shall,  
33 consistent with current law, continue to be the legislative oversight body for the Program.  
34 The President Pro Tempore of the Senate and the Speaker of the House of  
35 Representatives may appoint a subcommittee of the Joint Legislative Commission on  
36 Governmental Operations to carry out this function. This subcommittee may conduct all  
37 initial reviews of plans, reports, and budgets relating to the Program and shall make  
38 recommendations to the Joint Legislative Commission on Governmental Operations.

39 (d) Administrative costs shall be equivalent to, on an average statewide basis for  
40 all local partnerships, not more than eight percent (8%) of the total statewide allocation to  
41 all local partnerships. What counts as administrative costs shall be as defined in the  
42 Smart Start Performance Audit.

1 (e) Any local partnership, before receiving State funds, shall be required  
2 annually to submit a plan and budget for State funds for appropriate programs to the  
3 North Carolina Partnership for Children, Inc., and the Joint Legislative Commission on  
4 Governmental Operations. State funds to implement the programs shall not be allocated  
5 to a local partnership until the program plan is approved by the North Carolina  
6 Partnership for Children, Inc.

7 (f) The North Carolina Partnership for Children, Inc., and all local  
8 partnerships shall use competitive bidding practices in contracting for goods and services  
9 on all contract amounts of one thousand five hundred dollars (\$1,500) and above, and,  
10 where practicable, on contracts for amounts of less than one thousand five hundred  
11 dollars (\$1,500).

12 (g) The role of the North Carolina Partnership for Children, Inc., shall  
13 continue to be expanded to incorporate all the aspects of the new role determined for the  
14 Partnership in the Smart Start Performance Audit recommendations and to provide  
15 technical assistance to local partnerships, assess outcome goals for children and families,  
16 ensure that statewide goals and legislative guidelines are being met, help establish  
17 policies and outcome measures, obtain non-State resources for early childhood and  
18 family services, and document and verify the cumulative contributions received by the  
19 partnerships.

20 (h) The North Carolina Partnership for Children, Inc., and all local  
21 partnerships shall, in the aggregate, be required to match no less than fifty percent (50%)  
22 of the total amount budgeted for the Program in each fiscal year of the biennium as  
23 follows: contributions of cash equal to at least ten percent (10%) and in-kind donated  
24 resources equal to no more than ten percent (10%) for a total match requirement of  
25 twenty percent (20%) for each fiscal year. Only in-kind contributions that are  
26 quantifiable, as determined in the Smart Start Performance Audit, shall be applied to the  
27 in-kind match requirement.

28 Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year  
29 shall result in a dollar-for-dollar reduction in the appropriation for the Program for the  
30 next fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible  
31 for compiling information on the private cash and in-kind contributions into a report that  
32 is submitted to the Joint Legislative Commission on Governmental Operations pursuant  
33 to G.S. 143B-168.13(5) in a format that allows verification by the Department of  
34 Revenue. The same match requirements shall apply to any expansion funds appropriated  
35 by the General Assembly.

36 (i) Counties participating in the Program may use the county's allocation of  
37 State and federal child care funds to subsidize child care according to the county's Early  
38 Childhood Education and Development Initiatives Plan as approved by the North  
39 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with  
40 the appropriate federal regulations. Child care providers shall, at a minimum, comply  
41 with the applicable requirements for State licensure or registration pursuant to Article 7  
42 of Chapter 110 of the General Statutes, with other applicable requirements of State law or

1 rule, including rules adopted for nonregistered child care by the Social Services  
2 Commission, and with applicable federal regulations.

3 (j) The Department of Human Resources shall continue to implement the  
4 performance-based evaluation system.

5 (k) The Frank Porter Graham Child Development Center shall continue its  
6 evaluation of the Program. Notwithstanding any policy to the contrary, the Frank Porter  
7 Graham Child Development Center may use any method legally available to it to track  
8 children who are participating or who have participated in any Early Childhood  
9 Education and Development Initiative in order to carry out its ongoing evaluation of the  
10 Program.

11 (l) G.S. 143B-168.12(a) reads as rewritten:

12 "(a) In order to receive State funds, the following conditions shall be met:

13 (1) The North Carolina Partnership shall have a Board of Directors  
14 consisting of the following 39 members:

- 15 a. The Secretary of Human Resources, ex officio;
- 16 b. The Secretary of Environment, Health, and Natural Resources, ex  
17 officio;
- 18 c. The Superintendent of Public Instruction, ex officio;
- 19 d. The President of the Department of Community Colleges, ex  
20 officio;
- 21 e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th  
22 Congressional Districts, appointed by the President Pro Tempore  
23 of the Senate;
- 24 f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th  
25 Congressional Districts, appointed by the Speaker of the House  
26 of Representatives;
- 27 g. Seventeen members, of whom four shall be members of the party  
28 other than the Governor's party, appointed by the Governor;
- 29 h. The President Pro Tempore of the Senate, or a designee;
- 30 i. The Speaker of the House of Representatives, or a designee;
- 31 j. The Majority Leader of the Senate, or a designee;
- 32 k. The Majority Leader of the House of Representatives, or a  
33 designee;
- 34 l. The Minority Leader of the Senate, or a designee; and
- 35 m. The Minority Leader of the House of Representatives, or a  
36 designee.

37 (2) The North Carolina Partnership shall agree to adopt procedures for its  
38 operations that are comparable to those of Article 33C of Chapter 143 of  
39 the General Statutes, the Open Meetings Law, and Chapter 132 of the  
40 General Statutes, the Public Records Law, and provide for enforcement  
41 by the Department.

42 (3) The North Carolina Partnership shall oversee the development and  
43 implementation of the local demonstration projects as they are selected.

- 1           (4) The North Carolina Partnership shall develop and implement a  
2 comprehensive standard fiscal accountability plan to ensure the fiscal  
3 integrity and accountability of State funds appropriated to it and to the  
4 local partnerships. The standard fiscal accountability plan shall, at a  
5 minimum, include a uniform, standardized system of accounting,  
6 internal controls, payroll, fidelity bonding, chart of accounts, and  
7 contract management and monitoring. The North Carolina Partnership  
8 may contract with outside firms to develop and implement the standard  
9 fiscal accountability plan. All local partnerships shall be required to  
10 participate in the standard fiscal accountability plan developed and  
11 adopted by the North Carolina Partnership pursuant to this subdivision.
- 12           (5) The North Carolina Partnership shall develop and implement a  
13 centralized accounting and contract management system which  
14 incorporates features of the required standard fiscal accountability plan  
15 described in subdivision (4) of subsection (a) of this section. The  
16 following local partnerships shall be required to participate in the  
17 centralized accountability system developed by the North Carolina  
18 Partnership pursuant to this subdivision:
- 19           a. Local partnerships which have significant deficiencies in their  
20 accounting systems, internal controls, and contract management  
21 systems, as determined by the North Carolina Partnership based  
22 on the annual financial audits of the local partnerships conducted  
23 by the Office of the State Auditor; and
- 24           b. Local partnerships which are in the first two years of operation  
25 following their ~~selection~~ selection, except for those created by  
26 combination with existing local partnerships. At the end of this  
27 two-year period, local partnerships shall continue to participate in  
28 the centralized accounting and contract management system.  
29 With the approval of the North Carolina Partnership, local  
30 partnerships may perform accounting and contract management  
31 functions at the local level using the standardized and uniform  
32 accounting system, internal controls, and contract management  
33 systems developed by the North Carolina Partnership.
- 34 Local partnerships which otherwise would not be required to participate  
35 in the centralized accounting and contract management system pursuant  
36 to this subdivision may voluntarily choose to participate in the system.  
37 Participation or nonparticipation shall be for a minimum of two years,  
38 unless, in the event of nonparticipation, the North Carolina Partnership  
39 determines that any partnership's annual financial audit reveals serious  
40 deficiencies in accounting or contract management.
- 41           (6) The North Carolina Partnership shall develop a formula for allocating  
42 direct services funds appropriated for this purpose to local partnerships.

1           (7) The North Carolina Partnership may adjust its allocations on the basis  
2 of local partnerships' performance assessments. In determining whether  
3 to adjust its allocations to local partnerships, the North Carolina  
4 Partnership shall consider whether the local partnerships are meeting the  
5 outcome goals and objectives of the North Carolina Partnership and the  
6 goals and objectives set forth by the local partnerships in their approved  
7 annual program plans.

8           The North Carolina Partnership may use additional factors to  
9 determine whether to adjust the local partnerships' allocations. These  
10 additional factors shall be developed with input from the local  
11 partnerships and shall be communicated to the local partnerships when  
12 the additional factors are selected. These additional factors may include  
13 board involvement, family and community outreach, collaboration  
14 among public and private service agencies, and family involvement.

15           On the basis of performance assessments, local partnerships annually  
16 shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local  
17 partnerships rated 'superior' ~~shall~~may receive, to the extent that funds  
18 are available, a ten percent (10%) increase in their annual funding  
19 allocation. Local partnerships rated 'satisfactory' ~~shall~~may receive their  
20 annual funding allocation. Local partnerships rated 'needs  
21 improvement' ~~shall~~may receive ninety percent (90%) of their annual  
22 funding allocation.

23           The North Carolina Partnership may contract with outside firms to  
24 conduct the performance assessments of local partnerships.

25           (8) The North Carolina Partnership shall establish a local partnership  
26 advisory committee comprised of 15 members. Eight of the members  
27 shall be chairs of local partnerships' board of directors, and seven shall  
28 be staff of local partnerships. Members shall be chosen by the Chair of  
29 the North Carolina Partnership from a pool of candidates nominated by  
30 their respective boards of directors. The local partnership advisory  
31 committee shall serve in an advisory capacity to the North Carolina  
32 Partnership and shall establish a schedule of regular meetings.  
33 Members shall serve two-year terms and shall not serve more than two  
34 consecutive terms. Members shall be chosen from local partnerships on  
35 a rotating basis. The advisory committee shall annually elect a chair  
36 from among its members.

37           (9) The North Carolina Partnership shall report (i) quarterly to the Joint  
38 Legislative Commission on Governmental Operations and (ii) to the  
39 General Assembly and the Governor on the ongoing progress of all the  
40 local partnerships' work, including all details of the use to which the  
41 allocations were put, and on the continuing plans of the North Carolina  
42 Partnership and of the Department, together with legislative proposals,  
43 including proposals to implement the program statewide."



- 1 (m) G.S. 143B-168.13(a) reads as rewritten:  
2 "(a) The Department shall:  
3 (1) Develop a statewide process, in cooperation with the North Carolina  
4 Partnership, to select the local demonstration projects. The first 12 local  
5 demonstration projects developed and implemented shall be located in  
6 the 12 congressional districts, one to a district. The locations of  
7 subsequent selections of local demonstration projects shall represent the  
8 various geographic areas of the State.  
9 (2) Develop and conduct a statewide needs and resource assessment every  
10 third year, beginning in the 1997-98 fiscal year. This needs assessment  
11 shall be conducted in cooperation with the North Carolina Partnership  
12 and with the local partnerships. The Department may contract with an  
13 independent firm to conduct the needs assessment. The needs  
14 assessment shall be conducted in a way which enables the Department  
15 and the North Carolina Partnership to review, and revise as necessary,  
16 the total program cost estimate and methodology. The data and findings  
17 of this needs assessment shall form the basis for annual program plans  
18 developed by local partnerships and approved by the North Carolina  
19 Partnership. A report of the findings of the needs assessment shall be  
20 presented to the General Assembly prior to the beginning of the 1999  
21 Session and every three years after that date.  
22 (2.1) Develop and maintain an automated, publicly accessible database of all  
23 regulated child care programs.  
24 (3) ~~Provide technical and administrative assistance to local partnerships,~~  
25 ~~particularly during the first year after they are selected under this Part to~~  
26 ~~receive State funds. The Department, at any time, may authorize the~~  
27 ~~North Carolina Partnership or a governmental or public entity to do the~~  
28 ~~contracting for one or more local partnerships. After a local~~  
29 ~~partnership's first year, the Department may allow the partnership to~~  
30 ~~contract for itself.~~  
31 (4) Adopt, in cooperation with the North Carolina Partnership, any rules  
32 necessary to implement this Part, including rules to ensure that State  
33 leave policy is not applied to the North Carolina Partnership and the  
34 local partnerships. In order to allow local partnerships to focus on the  
35 development of long-range plans in their initial year of funding, the  
36 Department may adopt rules that limit the categories of direct services  
37 for young children and their families for which funds are made available  
38 during the initial year.  
39 (5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s.  
40 24.29(c).  
41 (6) Annually update its funding formula using the most recent data  
42 available. These amounts shall serve as the basis for determining 'full  
43 funding' amounts for each local partnership."

1 (n) There is allocated from the funds appropriated to the Department of Human  
2 Resources, Division of Child Development, in this act, the sum of twenty-two million  
3 two hundred fifty-eight thousand six hundred twenty-five dollars (\$22,258,625) for the  
4 1997-98 fiscal year and the sum of twenty-five million two hundred ninety-eight  
5 thousand eight hundred thirty-eight dollars (\$25,298,838) for the 1998-99 fiscal year to  
6 be used as follows:

- 7 (1) Of the 35 partnerships existing as of the 1996-97 fiscal year, funds for  
8 direct services shall be increased a total of \$15,215,912 for the 1997-98  
9 fiscal year and \$15,215,912 for the 1998-99 fiscal year. The North  
10 Carolina Partnership for Children, Inc., may use up to \$1,500,000 of  
11 these funds in the 1997-98 fiscal year as planning funds for the  
12 remaining 45 unfunded counties.
- 13 (2) For the 12 new partnerships planned for as of the 1996-97 fiscal year,  
14 funds shall be \$5,252,713 for the 1997-98 fiscal year and \$9,142,926 for  
15 the 1998-99 fiscal year to administer and deliver direct services.
- 16 (3) The North Carolina Partnership for Children, Inc., shall receive an  
17 additional \$700,000 in the 1997-98 fiscal year and an additional  
18 \$700,000 in the 1998-99 fiscal year for the State-level administration of  
19 the Program.
- 20 (4) The Department of Human Resources shall receive \$750,000 in  
21 nonrecurring funds in the 1997-98 fiscal year to conduct a statewide  
22 needs and resources assessment.
- 23 (5) The Department of Human Resources shall receive \$100,000 in  
24 nonrecurring funds in the 1997-98 fiscal year to complete the  
25 automation of a database of all regulated child care programs.
- 26 (6) The Department of Human Resources shall receive \$240,000 in the  
27 1997-98 fiscal year and \$240,000 in the 1998-99 fiscal year for  
28 professional development programs.

29 (o) Of the funds appropriated to the Department of Human Resources for the  
30 Program for the 1997-99 biennium, the Frank Porter Graham Child Development Center  
31 shall receive the sum of eight hundred fifty thousand dollars (\$850,000) for the 1997-98  
32 fiscal year and the sum of eight hundred fifty thousand dollars (\$850,000) for the 1998-  
33 99 fiscal year.

34  
35 Requested by: Senator Ballance

36 **MEDICAL RECORDS COPY FEES/SOCIAL SECURITY DISABILITY CLAIMS**

37 Section 11.57. G.S. 90-411 reads as rewritten:

38 **"§ 90-411. Record copy fee.**

39 A health care provider may charge a reasonable fee to cover the costs incurred in  
40 searching, handling, copying, and mailing medical records to the patient or the patient's  
41 designated representative. The maximum fee shall be fifty cents (50) per page, provided  
42 that the health care provider may impose a minimum fee of up to ten dollars (\$10.00),  
43 inclusive of copying costs. If requested by the patient or the patient's designated

1 representative, nothing herein shall limit a reasonable professional fee charged by a  
2 physician for the review and preparation of a narrative summary of the patient's medical  
3 record. This section shall only apply with respect to liability claims for personal ~~injury~~,  
4 injury, and claims for social security disability, except that charges for medical records  
5 and reports related to claims under Article 1 of Chapter 97 of the General Statutes shall  
6 be governed by the fees established by the North Carolina Industrial Commission  
7 pursuant to G.S. 97-26.1."  
8

## 9 **PART XII. DEPARTMENT OF AGRICULTURE**

10  
11 Requested by: Senator Martin of Pitt

### 12 **MOUNTAIN STATE FAIR TO BECOME ENTERPRISE FUND**

13 Section 12. The activities of the Western North Carolina Agricultural Center  
14 and the Mountain State Fair shall be combined and operated in an enterprise fund.  
15 Current appropriated support to the Western North Carolina Agricultural Center shall be  
16 transferred on a quarterly basis with the anticipation that appropriated support will only  
17 be necessary until the combined operation develops sufficient revenue and operating  
18 reserves to become totally self-supporting.  
19

20 Requested by: Senator Martin of Pitt

### 21 **TIMBER SALES FOR MAINTENANCE OF STATE FARMS FORESTLAND**

22 Section 12.1. The Department of Agriculture is authorized to expend up to one  
23 hundred thousand dollars (\$100,000) each year for forestry management from funds  
24 received from the sale of timber that are deposited with the State Treasurer in a capital  
25 improvement account pursuant to G.S. 146-30. The Director of the Budget is authorized  
26 to transfer up to one hundred thousand dollars (\$100,000) from the capital improvement  
27 account to the Reserve for Forestry Management in the Department of Agriculture's  
28 operating budget and to prepare succeeding continuation budget documents to include  
29 one hundred thousand dollars (\$100,000) in the Reserve for Forestry Management.  
30

31 Requested by: Senator Martin of Pitt

### 32 **TRANSFER MARITIME MUSEUM TO CULTURAL RESOURCES**

33 Section 12.2. The 17.25 positions, support, and equipment in the North  
34 Carolina Maritime Museum, Department of Agriculture, shall be transferred to the  
35 Department of Cultural Resources.  
36

37 Requested by: Senator Martin of Pitt

### 38 **WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION**

39 Section 12.3. The Western North Carolina Development Association shall:

- 40 (1) By January 15, 1998, and more frequently as requested, report to the  
41 Joint Legislative Commission on Governmental Operations and the  
42 Fiscal Research Division the following information:

- 1 a. State fiscal year 1996-97 program activities, objectives, and  
2 accomplishments;
- 3 b. State fiscal year 1996-97 itemized expenditures and fund  
4 sources;
- 5 c. State fiscal year 1997-98 planned activities, objectives, and  
6 accomplishments, including actual results through December 31,  
7 1997; and
- 8 d. State fiscal year 1997-98 estimated itemized expenditures and  
9 fund sources, including actual expenditures and fund sources  
10 through December 31, 1997.
- 11 (2) By January 15, 1999, and more frequently as requested, report to the  
12 Joint Legislative Commission on Governmental Operations and the  
13 Fiscal Research Division the following information:
- 14 a. State fiscal year 1997-98 program activities, objectives, and  
15 accomplishments;
- 16 b. State fiscal year 1997-98 itemized expenditures and fund  
17 sources;
- 18 c. State fiscal year 1998-99 planned activities, objectives, and  
19 accomplishments, including actual results through December 31,  
20 1998; and
- 21 d. State fiscal year 1998-99 estimated itemized expenditures and  
22 fund sources, including actual expenditures and fund sources  
23 through December 31, 1998.
- 24 (3) Provide a copy of the Association's annual audited financial statement to  
25 the Fiscal Research Division within 30 days of issuance of the  
26 statement.
- 27

28 Requested by: Senator Martin of Pitt, Kerr

29 **INCREASE GRAPE GROWERS FUNDS**

30 Section 12.4. G.S. 105-113.81A reads as rewritten:

31 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**  
32 **wine.**

33 The Secretary shall on a quarterly basis credit to the Department of Agriculture  
34 ninety-four percent (94%) of the net proceeds of the excise tax collected on unfortified  
35 wine bottled in North Carolina during the previous quarter and ninety-five percent (95%)  
36 of the net proceeds of the excise tax collected on fortified wine bottled in North Carolina  
37 during the previous quarter, ~~provided except~~ that the amount credited to the Department  
38 of Agriculture under this section shall not exceed ~~ninety-one hundred fifty thousand~~  
39 dollars ~~(\$90,000) (\$150,000)~~ per fiscal year. The Department of Agriculture shall  
40 allocate the funds received under this section to the North Carolina Grape Growers  
41 Council to be used to promote the North Carolina grape and wine industry and to contract  
42 for research and development services to improve viticultural and enological practices in  
43 North Carolina. Any funds credited to the Department of Agriculture under this section

1 that are not expended by June 30 of any fiscal year may not revert to the General Fund,  
2 but shall remain available to the Department for the uses set forth in this section."

3  
4 Requested by: Senator Martin of Pitt

5 **AUTHORIZE THE AGRICULTURAL FINANCE AUTHORITY TO USE THE**  
6 **INTEREST FROM THE RESERVE FOR FARM LOANS FOR**  
7 **ADMINISTRATIVE EXPENSES**

8 Section 12.5. G.S. 122D-16 reads as rewritten:

9 "§ 122D-16. Trust funds. (a) Notwithstanding any other provisions of law to the  
10 contrary, all moneys received pursuant to the authority of this Chapter shall be deemed to  
11 be trust funds to be held and applied solely as provided in this Chapter. Interest earned  
12 from these moneys and interest received from loans made from these moneys may be  
13 used for any purpose set out in this Chapter and for the costs of administering this  
14 Chapter. The resolution authorizing any obligations or the trust agreement securing ~~the~~  
15 ~~same~~ any obligations may provide that any of ~~such~~ these moneys may be temporarily  
16 invested pending the disbursement ~~thereof~~ of the moneys and shall provide that any  
17 officer with whom, or any bank or trust company with which, such moneys shall be  
18 deposited, shall act as trustee of ~~such~~ the moneys and shall hold and apply the ~~same~~  
19 moneys for the purposes ~~hereof~~, under this Chapter, subject to ~~such~~ regulations as ~~this~~  
20 ~~Chapter and such resolution or trust agreement may provide.~~ any rules adopted pursuant  
21 to this Chapter and any provisions in the provision or trust agreement. ~~Any such moneys~~  
22 ~~or any other~~

23 (b) All moneys of the Authority may be invested in the following:

- 24 (1) Bonds, notes or treasury bills of the United States;  
25 (2) Non-convertible debt securities of the following issuers:  
26 a. The Federal Home Loan Bank Board;  
27 b. The Federal National Mortgage Association;  
28 c. The Federal Farm Credit Bank; and  
29 d. The Student Loan Marketing Association;  
30 (3) Any other obligations not listed above which are guaranteed as to  
31 principal and interest by the United States or any of its agencies;  
32 (4) Certificates of deposit and other evidences of deposit at state and federal  
33 chartered banks and savings and loan associations; provided that any  
34 principal amount of such certificate in excess of the amount insured by  
35 the federal government or any agency thereof be fully collateralized;  
36 (5) Obligations of the United States or its agencies under a repurchase  
37 agreement for a shorter time than the maturity date of the security itself  
38 if the market value of the security itself is more than the amount of  
39 funds invested;  
40 (6) Money market funds whose portfolios consist of any of the foregoing  
41 investments;  
42 (7) A guaranteed investment or similar contract, which provides for the  
43 investment of funds at a guaranteed rate of return, with an insurance

1                    company or depository financial institution with a claim paying rating  
 2                    of no less than either of the two highest grades given by a nationally  
 3                    recognized rating agency; and  
 4                    (8) Any other investment authorized by law for the investment of funds by  
 5                    a unit of local government."  
 6

7 **PART XIII. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL**  
 8 **RESOURCES**

9  
 10 Requested by: Senator Martin of Pitt

11 **ENVIRONMENTAL EDUCATION GRANTS**

12 Section 13. (a) Of the funds appropriated in this act to the Department of  
 13 Environment, Health, and Natural Resources, the sum of two hundred thousand dollars  
 14 (\$200,000) for the 1997-98 fiscal year and the sum of two hundred thousand dollars  
 15 (\$200,000) for the 1998-99 fiscal year shall be used to encourage and support the  
 16 development of environmental education library collections throughout the State by  
 17 providing grants to schools, community organizations, and environmental education  
 18 centers.

19 (b) The Department shall report to the Joint Legislative Commission on  
 20 Governmental Operations, the Environmental Review Commission, and the Fiscal  
 21 Research Division by January 1, 1998, and again by January 1, 1999, on the grant  
 22 program. The report shall include a list of amounts awarded and project descriptions for  
 23 each grant recipient.  
 24

25 Requested by: Senator Martin of Pitt

26 **GRASSROOTS SCIENCE PROGRAM**

27 Section 13.1. Of the funds appropriated in this act to the Department of  
 28 Environment, Health, and Natural Resources for the Grassroots Science Program, the  
 29 sum of three million one hundred fifty thousand dollars (\$3,150,000) for fiscal year 1997-  
 30 98 and the sum of six hundred thousand dollars (\$600,000) for fiscal year 1998-99 are  
 31 allocated as grants-in-aid for each fiscal year as follows:

	1997-98
	1998-99
32	
33	
34	
35	\$56,500
36	\$50,000
37	\$66,750
38	\$50,000
39	\$109,750
40	\$50,000
41	\$111,000
42	\$50,000

1	Western North Carolina Nature Center	\$130,750
2	\$15,000	
3	The Health Adventure Museum	
4	of Pack Place Education,	
5	Arts and Science Center, Inc.	\$162,500
6	\$35,000	
7	Cape Fear Museum	\$188,500
8	\$50,000	
9	Catawba Science Center	\$190,500
10	\$50,000	
11	Sci Works Science Center and	
12	Environmental Park of	
13	Forsyth County	\$231,000
14	\$50,000	
15	Natural Science	
16	Center of Greensboro	\$333,000
17	\$50,000	
18	Schiele Museum of Natural History	\$383,750
19	\$50,000	
20	North Carolina Museum of	
21	Life and Science	\$398,750
22	\$50,000	
23	Discovery Place	\$787,250
24	\$50,000	
25		
26	TOTAL	\$3,150,000
27	\$600,000	

29 Requested by: Senator Martin of Pitt

30 **ANIMAL WASTE COMPLIANCE PROGRAM REPORT**

31 Section 13.2. (a) No later than October 15, 1997, and quarterly thereafter, the  
 32 Department of Environment, Health, and Natural Resources shall submit status reports to  
 33 the Environmental Review Commission and the Fiscal Research Division. Each report  
 34 shall include, but not be limited to:

- 35 (1) The number of permits for animal waste management systems, itemized  
 36 by type of animal subject to such permits, issued since the last report  
 37 and a total for that calendar year.
- 38 (2) The number of operations reviews of animal waste management systems  
 39 that the Division of Soil and Water Conservation has conducted since  
 40 the last report and a total for that calendar year.
- 41 (3) The number of operations reviews of animal waste management systems  
 42 conducted by agencies other than the Division of Soil and Water

- 1 Conservation that have been conducted since the last report and a total  
2 for that calendar year.
- 3 (4) The number of reinspections associated with operations reviews  
4 conducted by the Division of Soil and Water Conservation since the last  
5 report and a total for that calendar year.
- 6 (5) The number of reinspections associated with operations reviews  
7 conducted by agencies other than the Division of Soil and Water  
8 Conservation since the last report and a total for that calendar year.
- 9 (6) The number of compliance inspections of animal waste management  
10 systems that the Division of Water Quality has conducted since the last  
11 report and a total for that calendar year.
- 12 (7) The number of follow-up inspections associated with compliance  
13 inspections conducted by the Division of Water Quality since the last  
14 report and a total for that calendar year.
- 15 (8) The average length of time for each category of reviews and inspections  
16 under subdivisions (2) through (7) of this subsection.
- 17 (9) The number of violations found during each category of review and  
18 inspection under subdivisions (2) through (7) of this subsection, the  
19 status of enforcement actions taken and pending, and the penalties  
20 imposed, collected, and in the process of being negotiated for each such  
21 violation.

22 (b) The information to be included in the reports pursuant to subsection (a) of this  
23 section shall be itemized by each regional office of the Department, with totals for the  
24 State indicated.

25  
26 Requested by: Senator Plyler

27 **DEFER SOME ANIMAL WASTE MANAGEMENT SYSTEM REQUIREMENTS**

28 Section 13.3. Section 19(c)(4) of Chapter 626 of the 1995 Session Laws reads  
29 as rewritten:

- 30 "(4) Notwithstanding G.S. 143-215.10C (a) through (d), a dry litter animal  
31 waste management system involving 30,000 or more birds shall  
32 continue to operate on a deemed permitted basis by rule under 15A  
33 N.C.A.C. 2H.0217 and shall comply with the animal waste management  
34 plan testing and record-keeping requirements by January 1, ~~1998~~.  
35 2000."

36  
37 Requested by: Senator Plyler

38 **ODOR CONTROL STUDY FUNDS**

39 Section 13.4. Of the funds appropriated to the Department of Environment,  
40 Health, and Natural Resources for the 1996-97 fiscal year and transferred to the Board of  
41 Governors of The University of North Carolina for the North Carolina Agricultural  
42 Research Service at North Carolina State University for research into economically  
43 feasible odor control technologies and for a detailed economic analysis of odor



1 management alternatives, the sum of six hundred thousand dollars (\$600,000) shall not  
2 revert to the General Fund on June 30, 1997. These funds shall remain in the budget of  
3 North Carolina State University for expenditure by the North Carolina Agricultural  
4 Research Service during the 1997-98 fiscal year. These funds may be used for capital  
5 expenditures to construct current technology swine production facilities for the purpose  
6 of research in adapting or developing new odor control technologies. The use of these  
7 funds for capital expenditures shall be authorized without any requirement of matching  
8 funds from private sources.

9  
10 Requested by: Senator Martin of Pitt

#### 11 **SOUTH MOUNTAINS GAMELANDS FUNDS**

12 Section 13.5. Of the funds appropriated in this act to the Wildlife Resources  
13 Commission, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year  
14 shall be used to assist in the acquisition of gamelands for hunting, fishing, outdoor  
15 recreation, and conservation in the South Mountains. The Wildlife Resources  
16 Commission may use and seek additional funds from the Wildlife Endowment Fund  
17 established in G.S. 143-250.1, private citizens, private nonprofit conservation  
18 organizations, the Clean Water Management Fund established in Article 13A of Chapter  
19 113 of the General Statutes, the Natural Heritage Trust Fund established in Article 5A of  
20 Chapter 113 of the General Statutes, and local governments to acquire gamelands in the  
21 South Mountains. The Wildlife Resources Commission shall work with citizens and  
22 local governments to develop a management plan for its gamelands in the South  
23 Mountains.

24  
25 Requested by: Senator Martin of Pitt

#### 26 **SUPERFUND PROGRAM FUNDS**

27 Section 13.6. (a) The Department of Environment, Health, and Natural Resources  
28 may use available funds, with the approval of the Office of State Budget and  
29 Management, in order to provide the ten percent (10%) cost share required for Superfund  
30 cleanups on the National Priority List sites and to pay the operating and maintenance  
31 costs associated with these cleanups. These funds may be in addition to those  
32 appropriated for this purpose.

33 (b) The Department of Environment, Health, and Natural Resources and the Office  
34 of State Budget and Management shall report to the Joint Legislative Commission on  
35 Governmental Operations the amount and the source of the funds used pursuant to  
36 subsection (a) of this section within 30 days of the expenditure of these funds.

37  
38 Requested by: Senator Martin of Pitt

#### 39 **FUNDS FOR VOLUNTARY REMEDIAL ACTIONS**

40 Section 13.7. (a) During the 1997-99 fiscal biennium, the Secretary of Environment,  
41 Health, and Natural Resources may contribute from the Inactive Hazardous Sites Cleanup  
42 Fund up to ten percent (10%) of the cost each fiscal year, not to exceed fifty thousand

1 dollars (\$50,000) per site, of implementing a voluntary remedial action program at up to  
2 three high-priority sites that substantially endanger public health or the environment.

3 (b) No later than April 1 of each year of the 1997-99 fiscal biennium, the  
4 Department of Environment, Health, and Natural Resources shall report to the General  
5 Assembly. Each report shall contain the location of the sites for which a voluntary  
6 remedial action program was implemented under subsection (a) of this section, the  
7 rationale for the State contributing to the cost of that remedial action, and the amount of  
8 the contribution made from the Inactive Hazardous Sites Cleanup Fund.

9  
10 Requested by: Senator Martin of Pitt

11 **POLLUTION PREVENTION AND ENVIRONMENTAL ASSISTANCE TO**  
12 **SMALL BUSINESSES WITH NEED**

13 Section 13.8. The Division of Pollution Prevention and Environmental  
14 Assistance shall, to the extent feasible, give greatest priority to small businesses that can  
15 demonstrate financial need when the Division of Pollution Prevention and Environmental  
16 Assistance awards grants or otherwise provides technical or financial assistance.

17  
18 Requested by: Senator Martin of Pitt

19 **PERMIT INFORMATION CENTER**

20 Section 13.9. The Department of Environment, Health, and Natural Resources  
21 may use any available funds to operate a permit information center within the  
22 Department to improve permit applications, guidance materials, applicant and citizen  
23 training, and for other related purposes.

24  
25 Requested by: Senator Martin of Pitt

26 **AGRICULTURE WASTE RESEARCH REPORTS**

27 Section 13.10. The Primary Investigator or Researcher receiving funding from  
28 the State pursuant to Section 2 of Chapter 18 of the Session Laws of the 1996 Second  
29 Extra Session for each of the following research projects and studies shall provide a  
30 progress report to the Environmental Review Commission, the Joint Legislative  
31 Commission on Governmental Operations, the Scientific Advisory Council on Water  
32 Resources and Coastal Fisheries Management, and the Fiscal Research Division on  
33 January 1 and July 1 of each year until the project or study is complete:

- 34 (1) Odor control technology.
- 35 (2) Sources of nitrogen through isotope markers.
- 36 (3) Groundwater impacts of lagoons.
- 37 (4) Atmospheric deposition of nitrogen in the Neuse Estuary.
- 38 (5) Alternative animal waste technologies.

39 Upon completion of the project or study, the Primary Investigator or Researcher shall  
40 provide a final report.

41  
42 Requested by: Senator Martin of Pitt

43 **TOWN FORK CREEK SOIL CONSERVATION PROJECT**

1 Section 13.11. (a) The funds placed in a reserve account in the Department of  
2 Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507  
3 of the 1995 Session Laws shall not revert until June 30, 1999. Those funds are  
4 reallocated as follows:

- 5 (1) Five hundred four thousand five hundred sixty dollars (\$504,560) to the  
6 Stokes County Water and Sewer Authority, Inc., for the Germanton  
7 Water Project.
- 8 (2) Nine hundred thirty thousand six hundred eighty dollars (\$930,680) to  
9 the Stokes County Water and Sewer Authority, Inc., for the Madison  
10 Connection Project.
- 11 (3) Eighty thousand dollars (\$80,000) to the Stokes County Water and  
12 Sewer Authority, Inc., for the Dan River Project.
- 13 (4) Thirty thousand dollars (\$30,000) to the Department of Environment,  
14 Health, and Natural Resources for the Limestone Creek small watershed  
15 project in Duplin County.
- 16 (5) Three hundred forty thousand six hundred forty dollars (\$340,640) to  
17 the Department of Environment, Health, and Natural Resources for the  
18 Deep Creek small watershed project in Yadkin County.

19 (b) The Department of Environment, Health, and Natural Resources and the  
20 Stokes County Water and Sewer Authority, Inc., shall report by October 1 and March 1  
21 of each fiscal year to the Joint Legislative Commission on Governmental Operations, the  
22 Fiscal Research Division of the General Assembly, and the Office of State Budget and  
23 Management regarding the use of the funds reallocated by this section. Each report shall  
24 include all of the following:

- 25 (1) The estimated cost of each project.
- 26 (2) The date that work on each project began or is expected to begin.
- 27 (3) The date that work on each project was completed or is expected to be  
28 completed.
- 29 (4) The actual cost of each project.

30  
31 Requested by: Senator Martin of Pitt

### 32 **CITIZEN WATER QUALITY MONITORING PROGRAM**

33 Section 13.12. Article 21 of Chapter 143 of the General Statutes is amended  
34 by adding a new section to read:

#### 35 **"§ 143-215A. Citizen Water Quality Monitoring Program.**

36 The Department shall establish the Citizen Water Quality Monitoring Program to  
37 provide an avenue for individuals to play a role in and to take personal responsibility for  
38 protecting the State's water quality. The goals of the Citizen Water Quality Monitoring  
39 Program are to coordinate monitoring activities among volunteers by river basins; to  
40 provide adequate training of volunteers and quality assurance of all data collected; and to  
41 incorporate the data collected by volunteers into the State's overall management of water  
42 quality."  
43

1 Requested by: Senators Odom, Perdue, Plyler

2 **ROANOKE/PAMLICO WATER QUALITY FUNDS**

3 Section 13.13. Of the funds appropriated to the Department of Environment,  
4 Health, and Natural Resources by this act for the 1997-98 fiscal year, the sum of four  
5 hundred thousand dollars (\$400,000) shall be used to establish a water quality monitoring  
6 program for the Roanoke-Pamlico estuary system. The Department of Environment,  
7 Health, and Natural Resources may enter into contracts for the provision of services for  
8 the water quality monitoring program.

9

10 Requested by: Senator Martin of Pitt

11 **RESERVE FOR CAPE FEAR RIVER FUNDS**

12 Section 13.14. (a) Of the funds appropriated to the Department of  
13 Environment, Health, and Natural Resources in this act, the sum of one million five  
14 hundred thousand dollars (\$1,500,000) for the 1997-98 fiscal year shall be placed in a  
15 reserve for the Cape Fear River Assembly, Inc., to be used for programs to monitor and  
16 improve water quality in the Cape Fear River.

17 (b) The Cape Fear River Assembly, Inc., shall report by 1 October 1997 and  
18 quarterly thereafter to the Environmental Review Commission and the Joint Legislative  
19 Commission on Governmental Operations on the proposed use of any reserve funds prior  
20 to encumbering those funds for that use and on the subsequent use of any reserve funds.  
21 After the Cape Fear River Assembly, Inc., reports a proposed use to the Joint Legislative  
22 Commission on Governmental Operations and the Office of State Budget and  
23 Management approves the distribution of funds, the Department shall distribute the funds  
24 from the reserve for that use.

25

26 Requested by: Senator Martin of Pitt

27 **WATER QUALITY PERMIT PROGRAMS/RESERVE FUNDS**

28 Section 13.15. (a) Of the funds appropriated to the Department of  
29 Environment, Health, and Natural Resources by this act for the 1997-98 fiscal year, the  
30 sum of one million dollars (\$1,000,000) shall be held in reserve within the Department.

31 (b) Of those funds held in reserve, the sum of one hundred fifty thousand  
32 dollars (\$150,000) shall be used to replace federal construction grant funds when the  
33 federal funds cease for the support of three positions in the Division of Water Quality,  
34 Department of Environment, Health, and Natural Resources.

35 (c) The remaining eight hundred fifty thousand dollars (\$850,000) held in  
36 reserve is to offset a possible permit receipt shortfall for the water quality programs for  
37 unrealized revenue up to two million nine hundred fifty thousand dollars (\$2,950,000).

38 Subject to approval by the Office of State Budget and Management, the  
39 Department may use the reserve funds during the 1997-98 fiscal year in accordance with  
40 this subsection. The eight hundred fifty thousand dollars (\$850,000) in reserve may be  
41 used to provide the necessary cash flow for the water quality programs during the fiscal  
42 year if receipts during the fiscal year are insufficient to cover water quality program

1 expenditures. The reserve funds shall be used only for the water quality programs  
2 administered by the Water Quality Section of the Water Quality Division.

3 At the end of the 1997-98 fiscal year:

4 (1) If the receipts generated by the water quality permit programs for the  
5 1997-98 fiscal year are less than two million nine hundred fifty  
6 thousand dollars (\$2,950,000), then the Water Quality Section may  
7 retain from the reserve an amount equal to the difference between two  
8 million nine hundred fifty thousand dollars (\$2,950,000) and actual  
9 water quality permit receipts for the 1997-98 fiscal year, not to exceed  
10 eight hundred fifty thousand dollars (\$850,000).

11 (2) If the receipts generated by the water quality permit programs for the  
12 1997-98 fiscal year are two million nine hundred fifty thousand dollars  
13 (\$2,950,000) or more, then the Water Quality Section shall not retain  
14 any funds from the reserve.

15 (d) All receipts, State funds, and federal funds that are budgeted for the Water  
16 Quality Section of the Water Quality Division, Department of Environment, Health, and  
17 Natural Resources, shall be used only for the Water Quality Section and the water quality  
18 programs administered by that section and shall not be transferred or used for any other  
19 purpose.

20 (e) For purposes of this section, "water quality permits" means all permits  
21 issued under Part 1 of Article 21 of Chapter 143 of the General Statutes that are  
22 administered by the Water Quality Section of the Water Quality Division, Department of  
23 Environment, Health, and Natural Resources.

24  
25 Requested by: Senator Martin of Pitt

26 **FEDERAL FUNDS FOR WATER QUALITY INDIRECT COSTS USED FOR**  
27 **WATER QUALITY**

28 Section 13.16. Federal funds received by the Department of Environment,  
29 Health, and Natural Resources received as federal indirect cost receipts associated with  
30 the federal Environmental Protection Agency "106" water quality grant may be credited  
31 to and used only by the Water Quality Section of the Water Quality Division for the  
32 permit programs and activities administered by that section.

33  
34 Requested by: Senators Odom, Perdue, Plyler

35 **REGIONAL WASTEWATER MANAGEMENT**

36 Section 13.17. (a) Of the funds appropriated to the Department of  
37 Environment, Health, and Natural Resources by this act, the sum of one million dollars  
38 (\$1,000,000) for the 1997-98 fiscal year shall be allocated for costs associated with  
39 further development of a regional wastewater collection, treatment, and disposal system  
40 that uses an innovative technology to reduce nutrient and organic loadings to surface  
41 waters.

42 (b) The Department of Environment, Health, and Natural Resources shall  
43 report by April 1, 1998, regarding the use of the funds allocated under this section. The

1 report shall be made to the Joint Legislative Commission on Governmental Operations  
2 and to the Environmental Review Commission. A written copy of the report shall be  
3 provided to the Fiscal Research Division of the General Assembly.  
4

5 Requested by: Senators Odom, Plyler, Perdue

6 **CLEAN WATER TRUST FUND/PRIORITIZE BETWEEN SAVINGS RESERVE**  
7 **ACCOUNT AND CLEAN WATER MANAGEMENT TRUST FUND**

8 Section 13.18. (a) G.S. 143-15.3B(a) reads as rewritten:

9 "(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3.  
10 The State Controller shall reserve to the Clean Water Management Trust Fund six and  
11 one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund  
12 at the end of each fiscal ~~year~~-year or thirty million dollars (\$30,000,000), whichever is  
13 greater.

14 As used in this section, the term 'unreserved credit balance' means the credit balance  
15 amount, as determined on a cash basis, before funds are reserved by the State Controller  
16 to the Savings Reserve Account, the Repairs and Renovations Reserve Account, or the  
17 Clean Water Management Trust Fund pursuant to this section, G.S. 143-15.3, and G.S.  
18 143-15.3A."

19 (b) G.S. 143-15.3(a) reads as rewritten:

20 "(a) There is established a Savings Reserve Account as a restricted reserve in the  
21 General Fund. The State Controller shall reserve to the Savings Reserve Account one-  
22 fourth of any unreserved credit balance remaining in the General Fund at the end of each  
23 fiscal year until the account contains funds equal to five percent (5%) of the amount  
24 appropriated the preceding year for the General Fund operating budget, including local  
25 government tax-sharing funds. If the balance in the Savings Reserve Account falls below  
26 this level during a fiscal year, the State Controller shall reserve to the Savings Reserve  
27 Account for the following fiscal years up to one-fourth of any unreserved credit balance  
28 remaining in the General Fund at the end of each fiscal year until the account again  
29 equals five percent (5%) of the amount appropriated the preceding year for the General  
30 Fund operating budget, including local government tax-sharing funds. If there are  
31 insufficient funds in the unreserved credit balance for the Savings Reserve Account, the  
32 Repairs and Renovations Reserve Account, and the Clean Water Management Trust  
33 Fund, then the requirements of this section shall be complied with first, and any  
34 remaining funds shall be reserved to the Repairs and Renovations Reserve Account, in  
35 accordance with G.S. 143-15.3A, and the Clean Water Management Trust Fund, in  
36 accordance with G.S. 143-15.3B. As used in this section, the term 'unreserved credit  
37 balance' means the credit balance amount, as determined on a cash basis, before funds are  
38 reserved by the Controller to the Savings Reserve Account or the Repairs and  
39 Renovations Reserve Account pursuant to this section and G.S. 143-15.3A."

40 (c) This section becomes effective June 30, 1997.  
41

42 Requested by: Senator Martin of Pitt

43 **PARTNERSHIP FOR THE SOUNDS**

1 Section 13.19. (a) Subject to subsection (c) of this section, the Partnership for  
2 the Sounds shall, no later than January 15, 1998, submit a report to the Joint Legislative  
3 Commission on Governmental Operations and the Fiscal Research Division that provides  
4 the following information:

- 5 (1) Program activities, objectives, and accomplishments for the 1996-97  
6 fiscal year;
- 7 (2) Itemized expenditures and fund sources for the 1996-97 fiscal year;
- 8 (3) Planned activities, objectives, and accomplishments for the 1997-98  
9 fiscal year, including actual results through December 31, 1997; and
- 10 (4) Estimated itemized expenditures and fund sources for the 1997-98 fiscal  
11 year, including actual expenditures and fund sources through December  
12 31, 1997.

13 (b) Subject to subsection (c) of this section, the Partnership for the Sounds shall,  
14 no later than January 15, 1999, submit a report to the Joint Legislative Commission on  
15 Governmental Operations and the Fiscal Research Division that provides the following  
16 information:

- 17 (1) Program activities, objectives, and accomplishments for the 1997-98  
18 fiscal year;
- 19 (2) Itemized expenditures and fund sources for the 1997-98 fiscal year;
- 20 (3) Planned activities, objectives, and accomplishments for the 1998-99  
21 fiscal year, including actual results through December 31, 1998; and
- 22 (4) Estimated itemized expenditures and fund sources for the 1998-99 fiscal  
23 year, including actual expenditures and fund sources through December  
24 31, 1998.

25 (c) The Partnership for the Sounds shall provide additional reports to the Joint  
26 Legislative Commission on Governmental Operations or the Fiscal Research Division  
27 upon request.

28 (d) The Partnership for the Sounds shall provide a copy of its annual audited  
29 financial statement to the Fiscal Research Division within 30 days of issuing the financial  
30 statement.

31  
32 Requested by: Senator Martin of Pitt

### 33 **COMMUNICABLE DISEASE CONTROL AID TO COUNTIES FLEXIBILITY**

34 Section 13.20. (a) For the 1997-98 and 1998-99 fiscal years, the Department of  
35 Environment, Health, and Natural Resources may combine and allocate funds  
36 appropriated for Aid to Counties in the Acute Communicable Disease Control Fund, the  
37 Tuberculosis Control Fund, and the Sexually Transmitted Disease Control Fund into one  
38 Acute Communicable Disease Control Aid to Counties Grant. Communicable Disease  
39 Aid to Counties funding to local health departments and other authorized recipients will  
40 be based on a general communicable disease formula to be developed by the Department  
41 of Environment, Health, and Natural Resources.

42 (b) The Department of Environment, Health, and Natural Resources, in  
43 conjunction with local health departments, will maintain a system to monitor and identify

1 Aid to Counties communicable disease expenditures by each communicable disease  
2 group. The Department shall report to the Joint Legislative Commission on  
3 Governmental Operations not later than October 1, 1997, and annually thereafter, on Aid  
4 to Counties expenditures by county for each communicable disease group and the  
5 purpose of the expenditures for the fiscal year. The report shall also include an  
6 evaluation of the effectiveness of combining Aid to Counties funding into one grant fund  
7 and the effectiveness of the formula used to allocate funds.

8  
9 Requested by: Senator Martin of Pitt

#### 10 **DWI TEST CHANGES**

11 Section 13.21. (a) For the 1997-98 and 1998-99 fiscal years, any funds  
12 collected under G.S. 20-16.5(j) that are designated for the chemical alcohol testing  
13 program of the Injury Control Section of the Department of Environment, Health, and  
14 Natural Resources and are not needed for that program shall be transferred annually to  
15 the Governor's Highway Safety Program for grants to local law enforcement agencies for  
16 training and enforcement of the laws on driving while impaired. The Governor's  
17 Highway Safety Program shall expend funds transferred to it under this section within 13  
18 months of receipt of the funds. Amounts received by the Governor's Highway Safety  
19 Program shall not revert until the June 30 following the 13-month period.

20 (b) Notwithstanding G.S. 143-23(a1)(3), if the total requirements for the 1997-98  
21 and 1998-99 fiscal years for the statewide chemical alcohol testing program exceed funds  
22 appropriated in this act for the program, then the Injury Control Section may use funds in  
23 accordance with G.S. 20-16.5(j) to fund the chemical alcohol testing program  
24 requirements in excess of the General Fund appropriation, provided that total  
25 expenditures for the 1997-98 and 1998-99 fiscal years for the chemical alcohol testing  
26 program shall not exceed amounts collected under G.S. 20-16.5(j) and designated for the  
27 chemical alcohol and testing program.

28  
29 Requested by: Senator Martin of Pitt

#### 30 **STATE TRAINING/ENVIRONMENTAL HEALTH SPECIALISTS**

31 Section 13.22. The Department of Environment, Health, and Natural  
32 Resources shall improve the initial training provided to environmental health specialists  
33 serving as agents of the State. The Department shall utilize modern technology and  
34 training techniques for improving the training program. The Department shall make a  
35 progress report on the training program to the Joint Legislative Commission on  
36 Governmental Operations and the Fiscal Research Division not later than July 1, 1998.

37  
38 Requested by: Senator Martin of Pitt

#### 39 **EVALUATE SEPTIC TANKS IN THE NEUSE RIVER BASIN**

40 Section 13.23. (a) Of the funds appropriated to the Department of Environment,  
41 Health, and Natural Resources in this act, the sum of one hundred fifty thousand dollars  
42 (\$150,000) for the 1997-98 fiscal year shall be used to evaluate septic tanks in the Neuse  
43 River Basin. This evaluation shall include all of the following:



- 1 (1) The number of septic tanks.
- 2 (2) The condition of the septic tanks.
- 3 (3) Any potential groundwater contamination from malfunctioning septic
- 4 tank systems.
- 5 (4) The impact of hurricane damage and flooding on septic tank systems.
- 6 (5) The cost to repair or replace failing septic tanks.
- 7 (6) Any viable alternatives to septic tanks.

8 (b) No later than April 1, 1998, the Department shall report its findings on septic  
9 tanks to the Environmental Review Commission, the Fiscal Research Division, and the  
10 Joint Legislative Commission on Governmental Operations. The Environmental Review  
11 Commission shall report its findings and recommendations to the General Assembly on  
12 the first day of the 1998 Regular Session of the 1997 General Assembly.

13  
14 Requested by: Senators Odom, Perdue, Plyler

#### 15 **MONITOR COASTAL WATER QUALITY**

16 Section 13.24. (a) Article 8 of Chapter 130A of the General Statutes is  
17 amended by adding a new Part to read:

#### 18 **"PART 3A. MONITOR WATER QUALITY OF COASTAL FISHING WATERS.**

#### 19 **"§ 130A-233. Definitions.**

20 The following definitions apply to this Part:

- 21 (1) Coastal fishing waters, as defined in G.S. 113-129(4).
- 22 (2) Inland fishing waters, as defined in G.S. 113-129(9).

#### 23 **"§ 130A-233.1. Monitoring program for State coastal fishing waters; development**

#### 24 **and implementation of program.**

25 For the protection of the public health of swimmers and others who use the State's  
26 coastal fishing waters for recreational activities, the Department shall develop and  
27 implement a program to monitor the State's coastal fishing waters for contaminants. The  
28 monitoring program shall cover all coastal fishing waters up to the point where those  
29 waters are classified as inland fishing waters."

30 (b) Of the funds appropriated by this act to the Department of Environment,  
31 Health, and Natural Resources, the sum of three hundred ninety-seven thousand sixty-six  
32 dollars (\$397,066) for the 1997-98 fiscal year and the sum of three hundred thirty-seven  
33 thousand five hundred sixty-six dollars (\$337,566) for the 1998-99 fiscal year shall be  
34 allocated to the Shellfish Sanitation Branch to develop and implement the monitoring  
35 program required by this section.

36  
37 Requested by: Senator Martin of Pitt

#### 38 **REISSUE CERTAIN WASTEWATER PERMITS**

39 Section 13.25. Notwithstanding the provisions of Article 11 of Chapter 130A  
40 of the General Statutes to the contrary, the Department of Environment, Health, and  
41 Natural Resources or the local health department shall issue an improvement permit and  
42 an authorization for wastewater system construction for any wastewater system that was  
43 the subject of an improvement permit issued by a local health department between July 1,

1 1982, and September 30, 1995, that expired prior to the installation of that wastewater  
2 system, upon a showing satisfactory to the Department or the local health department,  
3 respectively, that all of the following conditions are satisfied:

- 4 (1) The site and soil conditions are unaltered.
- 5 (2) The facility, design wastewater flow, and wastewater characteristics are  
6 not increased since the expired permit was issued.
- 7 (3) A wastewater system can be installed that meets the permitting  
8 requirements in effect on the date the expired improvement permit was  
9 issued.
- 10 (4) The intended use has not changed.
- 11 (5) There is no current technology that can reasonably be expected to  
12 improve the performance of the system.
- 13 (6) But for the issuance of an authorization for wastewater system  
14 construction under this act, the proposed site cannot be developed for  
15 the purpose for which the expired permit was issued.

16  
17 Requested by: Senator Martin of Pitt

#### 18 **CHILDHOOD LEAD EXPOSURE CONTROL**

19 Section 13.26. (a) Of the funds appropriated in this act to the Department of  
20 Environment, Health, and Natural Resources, the sum of two hundred thirty-seven  
21 thousand seventy-nine dollars (\$237,079) for the 1997-98 fiscal year and the sum of two  
22 hundred ten thousand eight hundred seventy-nine dollars (\$210,879) for the 1998-99  
23 fiscal year shall be used to expand the State's Childhood Lead Poisoning Prevention  
24 Program.

25 (b) The allocation of funds under subsection (a) of this section is contingent  
26 upon the enactment into law of Senate Bill 806, 1997 General Assembly.

27  
28 Requested by: Senators Martin of Pitt, Warren

#### 29 **EXTEND HEART DISEASE AND STROKE PREVENTION TASK FORCE**

30 Section 13.27. Subsections (l) and (m) of Section 26.9 of Chapter 507 of the  
31 1995 Session Laws read as rewritten:

32 "(l) The Task Force shall submit to the Governor and to the General Assembly a  
33 preliminary report by January 1, 1996; an interim report within the first week of the  
34 convening of the 1997 General Assembly; a second interim report within the first week of  
35 the convening of the 1997 General Assembly, Regular Session 1998; a third interim  
36 report within the first week of the convening of the 1999 General Assembly, and a final  
37 report by ~~October 1, 1997.~~ June 30, 1999. The reports shall address the Plan, actions and  
38 resources needed to fully implement the Plan, and progress in achieving implementation  
39 of the Plan to reduce the occurrence of and burden from heart disease and stroke in North  
40 Carolina. The reports shall include an accounting of funds expended and anticipated  
41 funding needs for full implementation of recommended plans and programs.

42 (m) Upon submission of its final report to the Governor and the ~~1997-1999~~ General  
43 Assembly, the Task Force shall expire."

1  
2 Requested by: Senator Martin of Pitt

3 **CANCER CONTROL FUNDS**

4 Section 13.28. Of the funds appropriated in this act to the Department of  
5 Environment, Health, and Natural Resources, the sum of five hundred thousand dollars  
6 (\$500,000) for the 1997-98 fiscal year shall be allocated for promoting the prevention,  
7 early detection, data collection, coordination, and optimal care in the control of cancer.  
8 Purposes for which funds appropriated under this section may be used include a total of  
9 six full-time limited positions for the Central Cancer Registry, the Division of Health  
10 Promotion, and the Advisory Committee on Cancer Coordination and Control. Funds  
11 shall be allocated upon the advice of the Advisory Committee on Cancer Coordination  
12 and Control. The Department shall report to the Joint Legislative Commission on  
13 Governmental Operations and the Fiscal Research Division by February 1, 1998 on the  
14 allocation and use of the funds.

15 These funds are appropriated to honor the memory of Dr. John Kernodle.

16  
17 Requested by: Senator Martin of Pitt

18 **OSTEOPOROSIS TASK FORCE**

19 Section 13.29. (a) Of the funds appropriated in this act to the Department of  
20 Environment, Health, and Natural Resources, Division of Adult Health Promotion, the  
21 sum of two hundred thousand dollars (\$200,000) for the 1997-98 fiscal year shall be  
22 allocated for the Osteoporosis Prevention Task Force created under this section.

23 (b) The North Carolina Osteoporosis Prevention Task Force is created in the  
24 Division of Health Promotion, Department of Environment, Health, and Natural  
25 Resources.

26 (c) The Task Force shall have 25 members. The Governor shall appoint the  
27 Chair, and the Vice-chair shall be elected by the Task Force. The Director of the  
28 Division of Health Promotion in the Department of Environment, Health, and Natural  
29 Resources, the Director of the Division of Medical Assistance in the Department of  
30 Human Resources, and the Director of the Division of Aging in the Department of  
31 Human Resources, or their designees, shall be members of the Task Force.  
32 Appointments to the Task Force shall be made as follows:

33 (1) By the President Pro Tempore of the Senate, as follows:

- 34 a. Two members of the Senate;  
35 b. A representative of a women's health organization;  
36 c. A local health director;  
37 d. A certified health educator;  
38 e. A representative of the North Carolina Association of Area  
39 Agencies on Aging; and  
40 f. A person with osteoporosis.

41 (2) By the Speaker of the House of Representatives, as follows:

- 42 a. Two members of the House of Representatives;  
43 b. A county commissioner;

- 1 c. A licensed dietitian/nutritionist;  
2 d. A pharmacist;  
3 e. A registered nurse; and  
4 f. A person with osteoporosis.
- 5 (3) By the Governor, as follows:  
6 a. A practicing family physician, rheumatologist, or  
7 endocrinologist;  
8 b. A president or chief executive officer of a business upon  
9 recommendation of a North Carolina wellness council which is a  
10 member of the Wellness Councils of America;  
11 c. A news director of a newspaper or television or radio station;  
12 d. A representative of a North Carolina affiliate of the National  
13 Osteoporosis Foundation;  
14 e. A representative from the North Carolina Cooperative Extension  
15 Service;  
16 f. A representative of the Governor's Council on Physical Fitness  
17 and Health; and  
18 g. Two members at large.
- 19 (d) Each appointing authority shall assure insofar as possible that its appointees to  
20 the Task Force reflect the composition of the North Carolina population with regard to  
21 ethnic, racial, age, gender, and religious composition.
- 22 (e) The General Assembly and the Governor shall make their appointments to  
23 the Task Force not later than 30 days after the adjournment of the 1997 General  
24 Assembly, Regular Session 1998. A vacancy on the Task Force shall be filled by the  
25 original appointing authority, using the criteria set out in this section for the original  
26 appointment.
- 27 (f) The Task Force shall meet at least quarterly or more frequently at the call  
28 of the Chair.
- 29 (g) The Task Force Chair may establish committees for the purpose of making  
30 special studies pursuant to its duties and may appoint non-Task Force members to serve  
31 on each committee as resource persons. Resource persons shall be voting members of the  
32 committees and shall receive subsistence and travel expenses in accordance with G.S.  
33 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish  
34 the purposes of this section.
- 35 (h) Members of the Task Force shall receive per diem and necessary travel and  
36 subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.
- 37 (i) A majority of the Task Force shall constitute a quorum for the transaction  
38 of its business.
- 39 (j) The Task Force may use funds allocated to it to establish one full-time  
40 limited position and for other expenditures needed to assist the Task Force in carrying out  
41 its duties.
- 42 (k) The Osteoporosis Prevention Task Force has the following duties:

- 1 (1) To undertake a statistical and qualitative examination of the incidence  
2 of and causes of osteoporosis deaths and risks, including identification  
3 of subpopulations at highest risk for developing osteoporosis, and  
4 establish a profile of the osteoporosis burden in North Carolina.
- 5 (2) To raise public awareness on the causes and nature of osteoporosis,  
6 personal risk factors, value of prevention and early detection, and  
7 options for diagnosing and treating the disease.
- 8 (3) To identify priority strategies which are effective in preventing and  
9 controlling risks for osteoporosis, and in diagnosing and treating  
10 osteoporosis.
- 11 (4) To identify, examine limitations of, and recommend to the Governor  
12 and the General Assembly changes to existing laws, regulations,  
13 programs, services, and policies to enhance osteoporosis prevention,  
14 diagnosis, and treatment for the people of North Carolina.
- 15 (5) To determine and recommend to the Governor and the General  
16 Assembly the funding and strategies needed to enact new or to modify  
17 existing laws, regulations, programs, services, and policies to enhance  
18 osteoporosis prevention, diagnosis, and treatment for the people of  
19 North Carolina.
- 20 (6) To develop a statewide comprehensive Osteoporosis Prevention Plan,  
21 and strategies for Plan implementation and for promoting the Plan to the  
22 general public, State and local elected officials, various public and  
23 private organizations and associations, businesses and industries,  
24 agencies, potential funding sources, and other community resources.
- 25 (7) To identify strategies to facilitate specific commitments to help  
26 implement the Plan from the entities listed in subdivision (6) above.
- 27 (8) To facilitate coordination of and communication among State and local  
28 agencies and organizations regarding current or future involvement in  
29 achieving the aims of the Osteoporosis Prevention Plan.
- 30 (9) To receive and consider reports and testimony from individuals, local  
31 health departments, community-based organizations, voluntary health  
32 organizations, and other public and private organizations statewide, to  
33 learn more about their contributions to osteoporosis diagnosis,  
34 prevention, and treatment, and their ideas for improving osteoporosis  
35 prevention, diagnosis, and treatment in North Carolina.
- 36 (l) The Task Force shall submit a progress report to the Joint Legislative  
37 Commission on Governmental Operations, the Governor, and the Fiscal Research  
38 Division not later than April 1, 1998. The progress report shall address:
  - 39 a. Progress being made in fulfilling the duties of the Task Force and  
40 in developing the Osteoporosis Prevention Plan,
  - 41 b. The anticipated time frame for completion of the Prevention  
42 Plan, and

- 1 c. Recommended strategies or actions to reduce the occurrence of  
2 and burdens suffered from osteoporosis by citizens of this State.

3 The Task Force shall submit its final report to the 1999 General Assembly, the Governor,  
4 and The Fiscal Research Division not later than October 1, 1999.

5 (m) Upon submission of its final report to the Governor and the 1999 General  
6 Assembly, the Task Force shall expire.

7  
8 Requested by: Senator Martin of Pitt

9 **IMMUNIZATION PROGRAM FUNDING**

10 Section 13.30. (a) Of the funds appropriated to the Department of Environment,  
11 Health, and Natural Resources for the 1997-99 fiscal biennium for childhood  
12 immunization programs for positions, operating support, equipment, and  
13 pharmaceuticals, the sum of up to one million dollars (\$1,000,000) each fiscal year may  
14 be used for projects and activities that are also designed to increase childhood  
15 immunization rates in North Carolina. These projects and activities shall include the  
16 following:

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

- 22 (2) Continued development of an automated immunization registry.

23 (b) Funds authorized to be used for immunization efforts under subsection (a) of  
24 this section shall not be used to fund additional State positions in the Department of  
25 Environment, Health, and Natural Resources.

26  
27 Requested by: Senator Martin of Pitt

28 **WIC PROGRAM FUNDS**

29 Section 13.31. Of the funds appropriated to the Department of Environment,  
30 Health, and Natural Resources for the Women, Infants, and Children (WIC) Program, the  
31 sum of one million two hundred eighty thousand dollars (\$1,280,000) for the 1997-98  
32 fiscal year and the sum of one million two hundred eighty thousand dollars (\$1,280,000)  
33 for the 1998-99 fiscal year shall, if sufficient federal food funds are available, be used for  
34 the WIC Program as follows:

- 35 (1) Not more than \$500,000 in each fiscal year shall be used to establish  
36 new WIC Programs in Head Start or other private or public nonprofit  
37 agencies to serve additional mothers, infants, and children. The  
38 Department shall utilize these funds for local program operations  
39 including staff to provide eligibility determination, nutrition education,  
40 and health care referrals. In selecting the new WIC Programs, the  
41 Department shall consider accessibility to the target population  
42 including location and hours of operation.

- 1 (2) Not more than \$250,000 in each fiscal year shall be used to renovate  
2 facilities of existing programs where space constraints limit program  
3 expansion, and to fund rental costs in areas where accessible donated  
4 space is not available. In selecting the facilities the Department shall  
5 consider accessibility to the target population including location and  
6 extended hours of operation. In determining whether to fund rental of  
7 space, the Department shall ensure that options for using donated  
8 accessible space have been considered. Not more than \$75,000 of funds  
9 allocated under this subdivision for each fiscal year shall be used for  
10 rental of space.
- 11 (3) Not more than \$300,000 in each fiscal year shall be used to purchase  
12 physician-prescribed special formulas and nutritional supplements for  
13 infants, children, and women.
- 14 (4) Not more than \$60,000 in each fiscal year shall be used to provide the  
15 required State match to the WIC farmers' market project.
- 16 (5) Not more than \$170,000 in each fiscal year shall be used for the purpose  
17 of establishing and maintaining a Public Health Nutritionist Internship  
18 Program.

19 If sufficient federal food funds are not available then funds appropriated for the WIC  
20 Program under this section shall be used to supplement federal food funds and any  
21 balance in funds remaining after the supplemental use shall be used in accordance with  
22 subdivisions (1) through (5) of this section.

23  
24 Requested by: Senator Martin of Pitt

25 **ADOLESCENT PREGNANCY PREVENTION COALITION OF**  
26 **NC/REPORTING**

27 Section 13.32. The Adolescent Pregnancy Prevention Coalition of N.C. shall:

- 28 (1) By January 15, 1998, and more frequently as requested, report to the  
29 Joint Legislative Commission on Governmental Operations and the  
30 Fiscal Research Division the following information:
- 31 a. State fiscal year 1996-97 program activities, objectives, and  
32 accomplishments;
  - 33 b. State fiscal year 1996-97 itemized expenditures and fund  
34 sources;
  - 35 c. State fiscal year 1997-98 planned activities, objectives, and  
36 accomplishments including actual results through December 31,  
37 1997; and
  - 38 d. State fiscal year 1997-98 estimated itemized expenditures and  
39 fund sources including actual expenditures and fund sources  
40 through December 31, 1997.
- 41 (2) By January 15, 1999, and more frequently as requested, report to the  
42 Joint Legislative Commission on Governmental Operations and the  
43 Fiscal Research Division the following information:

- 1 a. State fiscal year 1997-98 program activities, objectives, and  
2 accomplishments;
- 3 b. State fiscal year 1997-98 itemized expenditures and fund  
4 sources;
- 5 c. State fiscal year 1998-99 planned activities, objectives, and  
6 accomplishments including actual results through December 31,  
7 1998; and
- 8 d. State fiscal year 1998-99 estimated itemized expenditures and  
9 fund sources including actual expenditures and fund sources  
10 through December 31, 1998.
- 11 (3) Provide to the Fiscal Research Division a copy of the Coalition's annual  
12 audited financial statement within 30 days of issuance of the statement.  
13

14 Requested by: Senator Martin of Pitt

15 **NORTH CAROLINA HEALTHY START FOUNDATION/REPORTING**

16 Section 13.33. The North Carolina Healthy Start Foundation shall:

- 17 (1) By January 15, 1998, and more frequently as requested, report to the  
18 Joint Legislative Commission on Governmental Operations and the  
19 Fiscal Research Division the following information:
- 20 a. State fiscal year 1996-97 program activities, objectives, and  
21 accomplishments;
- 22 b. State fiscal year 1996-97 itemized expenditures and fund  
23 sources;
- 24 c. State fiscal year 1997-98 planned activities, objectives, and  
25 accomplishments including actual results through December 31,  
26 1997; and
- 27 d. State fiscal year 1997-98 estimated itemized expenditures and  
28 fund sources including actual expenditures and fund sources  
29 through December 31, 1997.
- 30 (2) Provide to the Fiscal Research Division a copy of the Foundation's  
31 annual audited financial statement within 30 days of issuance of the  
32 statement.  
33

34 Requested by: Senator Martin of Pitt

35 **PREVENT BLINDNESS, INC./REPORTING**

36 Section 13.34. Prevent Blindness, Inc., shall:

- 37 (1) By January 15, 1998, 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 1996-97 program activities, objectives, and  
41 accomplishments;
- 42 b. State fiscal year 1996-97 itemized expenditures and fund  
43 sources;



- 1 c. State fiscal year 1997-98 planned activities, objectives, and  
2 accomplishments including actual results through December 31,  
3 1997; and  
4 d. State fiscal year 1997-98 estimated itemized expenditures and  
5 fund sources including actual expenditures and fund sources  
6 through December 31, 1997.
- 7 (2) By January 15, 1999, and more frequently as requested, report to the  
8 Joint Legislative Commission on Governmental Operations and the  
9 Fiscal Research Division the following information:  
10 a. State fiscal year 1997-98 program activities, objectives, and  
11 accomplishments;  
12 b. State fiscal year 1997-98 itemized expenditures and fund  
13 sources;  
14 c. State fiscal year 1998-99 planned activities, objectives, and  
15 accomplishments including actual results through December 31,  
16 1998; and  
17 d. State fiscal year 1998-99 estimated itemized expenditures and  
18 fund sources including actual expenditures and fund sources  
19 through December 31, 1998.
- 20 (3) Provide to the Fiscal Research Division a copy of the Prevent Blindness,  
21 Inc., annual audited financial statement within 30 days of issuance of  
22 the statement.  
23

24 Requested by: Senator Martin of Pitt

#### 25 **FEDERAL ABSTINENCE EDUCATION FUNDS**

26 Section 13.35. If federal funds are received under the Maternal and Child  
27 Health Block Grant for abstinence education, pursuant to Sec. 912 of Public Law 104-  
28 193 (42 U.S.C. 710), for the 1997-98 or the 1998-99 fiscal year, or both, then those funds  
29 shall be transferred to and administered by the State Board of Education, unless the  
30 transfer is prohibited by federal law governing the use and administration of Maternal  
31 and Child Health Block Grant funds.  
32

#### 33 **PART XIV. DEPARTMENT OF COMMERCE**

34 Requested by: Senator Martin of Pitt

#### 35 **WORKER TRAINING TRUST FUND APPROPRIATIONS**

36 Section 14. (a) There is appropriated from the Worker Training Trust Fund to the  
37 Employment Security Commission of North Carolina the sum of five million eight  
38 hundred thirty-nine thousand nine hundred sixty-four dollars (\$5,839,964) for the 1997-  
39 98 fiscal year and the sum of five million eight hundred thirty-nine thousand nine  
40 hundred sixty-four dollars (\$5,839,964) for the 1998-99 fiscal year for the operation of  
41 local offices.  
42

1 (b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the  
2 Worker Training Trust Fund to the following agencies the following sums for the 1997-  
3 98 and the 1998-99 fiscal years for the following purposes:

- 4 (1) \$2,400,000 for the 1997-98 fiscal year and \$2,400,000 for the 1998-99  
5 fiscal year to the Department of Commerce, Division of Employment  
6 and Training, for the Employment and Training Grant Program;
- 7 (2) \$1,000,000 for the 1997-98 fiscal year and \$1,000,000 for the 1998-99  
8 fiscal year to the Department of Labor for customized training of the  
9 unemployed and the working poor for specific jobs needed by  
10 employers through the Department's Bureau for Training Initiatives;
- 11 (3) \$1,746,000 for the 1997-98 fiscal year and \$1,746,000 for the 1998-99  
12 fiscal year to the Department of Community Colleges to continue the  
13 Focused Industrial Training Program;
- 14 (4) \$225,000 for the 1997-98 fiscal year and \$225,000 for the 1998-99  
15 fiscal year to the Employment Security Commission for the  
16 Occupational Information Coordinating Committee to develop and  
17 operate an interagency system to track former participants in State  
18 education and training programs;
- 19 (5) \$400,000 for the 1997-98 fiscal year and \$400,000 for the 1998-99  
20 fiscal year to the Department of Community Colleges for a training  
21 program in entrepreneurial skills to be operated by North Carolina  
22 REAL Enterprises; and
- 23 (6) \$50,000 for the 1997-98 fiscal year and \$50,000 for the 1998-99 fiscal  
24 year to the Office of State Budget and Management to maintain  
25 compliance with Chapter 96 of the General Statutes, which directs the  
26 Office Of State Budget and Management to employ the Common  
27 Follow-Up Management Information System to evaluate the  
28 effectiveness of the State's job training, education, and placement  
29 programs.
- 30 (7) \$100,000 for the 1997-98 fiscal year and \$100,000 for the 1998-99  
31 fiscal year to the State Board of Education for the Teacher  
32 Apprenticeship Program.

33  
34 Requested by: Senator Martin of Pitt

35 **JOB TRAINING STUDY COMMISSION**

36 Section 14.1. (a) The General Assembly intends to reorganize the State's workforce  
37 development system to improve the delivery of job training programs and services in  
38 North Carolina.

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

1 (c) The Commission shall consist of six members appointed by the Speaker of the  
2 House of Representatives, at least three of whom shall be members of the House of  
3 Representatives, and six members appointed by the President Pro Tempore of the Senate,  
4 at least three of whom shall be members of the Senate. The Speaker shall designate one  
5 Representative as cochair and the President Pro Tempore shall designate one Senator as  
6 cochair. Vacancies on the Commission shall be filled by the same appointing officer who  
7 made the initial appointment. The Commission shall expire upon delivering its final  
8 report to the 1997 General Assembly (1998 Regular Session).

9 The Commission, while in the discharge of official duties, may exercise all  
10 powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S.  
11 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The  
12 Commission may meet in the Legislative Building or the Legislative Office Building.  
13 The Commission may contract for professional, clerical, or consultant services as  
14 provided by G.S. 120-32.02.

15 The Legislative Services Commission, through the Legislative Administrative  
16 Officer, shall assign professional staff to assist the Commission in its work. The House  
17 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the  
18 Commission, and the expenses relating to the clerical employees shall be borne by the  
19 Commission. Members of the Commission shall receive subsistence and travel expenses  
20 at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

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

- 22 (1) To review State and federal laws, rules, and regulations pertaining to job  
23 training programs to determine the purpose of each program, the  
24 population served, and each program's annual outcomes in terms of type  
25 of training received, work search efforts, and job placement;
- 26 (2) To ascertain as far as possible the intention of the United States  
27 Congress with respect to continued funding of federally mandated job  
28 training programs and any changes in funding formulae;
- 29 (3) To review the amount of State and federal dollars appropriated for each  
30 job training program conducted in this State and to review federal  
31 requirements for continuous federal funding of the programs;
- 32 (4) To review the number of different State agencies that administer State  
33 and federal job training programs, the number of persons employed to  
34 implement each job training program, and the amount of State dollars  
35 needed annually to implement the program;
- 36 (5) To determine whether federally funded job training programs in this  
37 State may lawfully be abolished or reduced in size by the General  
38 Assembly, and the impact of such reduction or elimination;
- 39 (6) To conduct public hearings to receive citizen, State agency, and local  
40 government comment and experience with the job training programs;
- 41 (7) To conduct other studies or activities to aid the Commission in carrying  
42 out its purpose and duties, including reviewing reorganization and  
43 consolidation efforts in other states; and

1 (8) To ensure program evaluation and accountability for all workforce  
2 development programs and to create a comprehensive statewide focus  
3 on workforce development.

4 (e) The Commission shall report to the 1997 General Assembly (1998 Regular  
5 Session), the Joint Legislative Commission on Governmental Operations, and the Joint  
6 Legislative Education Oversight Committee not later than May 1, 1998. The report shall  
7 identify each job training program operating in the State and recommend whether each  
8 program should be expanded, continued without change, abolished, consolidated with  
9 another program, or otherwise modified, including implementation components.

10 (f) All State departments and agencies and local governments and their  
11 subdivisions shall furnish the Commission with any information in their possession or  
12 available to them.

13 (g) Notwithstanding G.S. 96-5(f), there is appropriated from the Worker  
14 Training Trust Fund to the General Assembly the sum of fifty thousand dollars (\$50,000)  
15 for the 1997-98 fiscal year to implement this section.

16  
17 Requested by: Senator Martin of Pitt

#### 18 **NC REAL ENTERPRISES REPORTING**

19 Section 14.2. NC REAL Enterprises shall do the following:

20 (1) By January 15, 1998, and more frequently as requested, report to the  
21 Joint Legislative Commission on Governmental Operations and the  
22 Fiscal Research Division the following information:

- 23 a. State fiscal year 1996-97 program activities, objectives, and  
24 accomplishments;
- 25 b. State fiscal year 1996-97 itemized expenditures and fund  
26 sources;
- 27 c. State fiscal year 1997-98 planned activities, objectives, and  
28 accomplishments including actual results through December 31,  
29 1997; and
- 30 d. State fiscal year 1997-98 estimated itemized expenditures and  
31 fund sources including actual expenditures and fund sources  
32 through December 31, 1997;

33 (2) By January 15, 1999, and more frequently as requested, report to the  
34 Joint Legislative Commission on Governmental Operations and the  
35 Fiscal Research Division the following information:

- 36 a. State fiscal year 1997-98 program activities, objectives, and  
37 accomplishments;
- 38 b. State fiscal year 1997-98 itemized expenditures and fund  
39 sources;
- 40 c. State fiscal year 1998-99 planned activities, objectives, and  
41 accomplishments including actual results through December 31,  
42 1998; and

- 1 d. State fiscal year 1998-99 estimated itemized expenditures and  
2 fund sources including actual expenditures and fund sources  
3 through December 31, 1998; and  
4 (3) Provide to the Fiscal Research Division a copy of the organization's  
5 annual audited financial statement within 30 days of issuance of the  
6 statement.

7  
8 Requested by: Senator Martin of Pitt

9 **SPECIAL EMPLOYMENT SECURITY ADMINISTRATION FUND**

10 Section 14.3. (a) Notwithstanding G.S. 96-5(c), there is appropriated from the Special  
11 Employment Security Administration Fund to the Employment Security Commission of  
12 North Carolina, the sum of two million dollars (\$2,000,000) for the 1997-98 fiscal year  
13 and the sum of two million dollars (\$2,000,000) for the 1998-99 fiscal year for  
14 administration of the Employment Services and Unemployment Insurance Programs.

15 (b) Supplemental federal funds or other additional funds received by the  
16 Employment Security Commission for similar purposes shall be expended prior to the  
17 expenditure of funds appropriated by this section.

18  
19 Requested by: Senator Martin of Pitt

20 **INDUSTRIAL RECRUITMENT COMPETITIVE FUND**

21 Section 14.4. (a) Funds appropriated in this act to the Department of  
22 Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the  
23 Fund. The purpose of the Fund is to provide financial assistance to those businesses or  
24 industries deemed by the Governor to be vital to a healthy and growing State economy  
25 and that are making significant efforts to establish or expand in North Carolina. Monies  
26 allocated from the Fund shall be used for the following purposes:

- 27 (1) Installation or purchase of equipment;  
28 (2) Structural repairs, improvements, or renovations of existing buildings to  
29 be used for expansion; and  
30 (3) Construction of or improvements to new or existing water, sewer, gas or  
31 electric utility distribution lines, or equipment for existing buildings.

32 Monies may also be used for construction of or improvements to new or  
33 existing water, sewer, gas or electric utility distribution lines, or equipment to serve new  
34 or proposed industrial buildings used for manufacturing and industrial operations. The  
35 Governor shall adopt guidelines and procedures for the commitment of monies from the  
36 Fund.

37 (b) The Department of Commerce shall report on or before October 1, 1997, and  
38 quarterly thereafter to the Joint Legislative Commission on Governmental Operations on  
39 the commitment, allocation, and use of funds allocated from the Industrial Recruitment  
40 Competitive Fund.

41  
42 Requested by: Senator Martin of Pitt

43 **COUNCIL OF GOVERNMENT FUNDS**

1 Section 14.5. (a) Of the funds appropriated in this act to the Department of  
2 Commerce, six hundred eighty-four thousand two hundred seventy dollars (\$684,270) for  
3 the 1997-98 fiscal year and six hundred eighty-four thousand two hundred seventy dollars  
4 (\$684,270) for the 1998-99 fiscal year shall only be used as provided by this section.  
5 Each regional council of government or lead regional organization is allocated up to  
6 thirty-eight thousand fifteen dollars (\$38,015) for each fiscal year, with the actual amount  
7 calculated as provided in subsection (b) of this section.

8 (b) The funds shall be allocated as follows: A share of the maximum thirty-eight  
9 thousand fifteen dollars (\$38,015) each fiscal year shall be allocated to each county and  
10 smaller city based on the most recent annual estimate of the Office of State Planning of  
11 the population of that county (less the population of any larger city within that county) or  
12 smaller city, divided by the sum of the total population of the region (less the population  
13 of larger cities within that region) and the total population of the region living in smaller  
14 cities. Those funds shall be paid to the regional council of government for the region in  
15 which that city or county is located upon receipt by the Department of Commerce of a  
16 resolution of the governing board of the county or city requesting release of the funds. If  
17 any city or county does not so request payment of funds by June 30 of a State fiscal year,  
18 that share of the allocation for that fiscal year shall revert to the General Fund.

19 (c) A regional council of government may use funds appropriated by this section  
20 only to assist local governments in grant applications, economic development,  
21 community development, support of local industrial development activities, and other  
22 activities as deemed appropriate by the member governments.

23 (d) Funds appropriated by this section shall not be used for payment of dues or  
24 assessments by the member governments and shall not supplant funds appropriated by the  
25 member governments.

26 (e) As used in this section, "Larger City" means an incorporated city with a  
27 population of 50,000 or over. "Smaller City" means any other incorporated city.

28  
29 Requested by: Senator Martin of Pitt

### 30 **PETROLEUM OVERCHARGE ATTORNEYS' FEES**

31 Section 14.6. (a) Unless prohibited by federal law, rule, or regulation or  
32 preexisting settlement agreement, no later than October 1, 1989, the North Carolina  
33 Attorney General shall direct the withdrawal of all funds received in the cases of **United**  
34 **States v. Exxon and Stripper Well** that are held in accounts or reserves located out-of-  
35 state for payment of attorneys' fees and reasonable expenses incurred in connection with  
36 oil overcharge litigation authorized by the Attorney General. The Attorney General shall  
37 deposit these funds, and all funds to be received from Petroleum Overcharge Funds in the  
38 future for attorneys' fees and reasonable expenses, into the Special Reserve for Oil  
39 Overcharge Funds.

40 (b) All attorneys' fees and reasonable expenses incurred in connection with oil  
41 overcharge litigation shall be paid by the State Treasurer from Petroleum Overcharge  
42 Funds that have been received by this State and deposited into the Special Reserve for Oil  
43 Overcharge Funds.

1 (c) Notwithstanding any other provision of law, the Attorney General may  
2 authorize the payment of attorneys' fees and reasonable expenses from the Special  
3 Reserve for Oil Overcharge Funds without further action of the General Assembly, and  
4 funds are hereby appropriated from the Special Reserve for Oil Overcharge Funds for the  
5 1997-98 fiscal year and for the 1998-99 fiscal year for that purpose.

6  
7 Requested by: Senator Martin of Pitt

#### 8 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

9 Section 14.7. (a) The funds and interest thereon received from the case of the **United**  
10 **States v. Exxon** are deposited in the Special Reserve for Oil Overcharge Funds. There is  
11 appropriated from the Special Reserve to the Department of Commerce the sum of one  
12 million two hundred thousand dollars (\$1,200,000) for the 1997-98 fiscal year and the  
13 sum of one million two hundred thousand dollars (\$1,200,000) for the 1998-99 fiscal year  
14 to be used for projects under the State Energy Efficiency Programs.

15 (b) There is appropriated from funds and interest thereon received from the United  
16 States Department of Energy's Stripper Well Litigation (MDL378) that remain in the  
17 Special Reserve for Oil Overcharge Funds to the Department of Commerce the sum of  
18 one million dollars (\$1,000,000) for the 1997-98 fiscal year and the sum of one million  
19 eight hundred thousand dollars (\$1,800,000) for the 1998-99 fiscal year to be allocated  
20 for the Residential Energy Conservation Assistance Programs (RECAP).

21 (c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the  
22 allocations made pursuant to subsections (a) and (b) of this section may be expended only  
23 as authorized by the General Assembly. All interest or income accruing from all deposits  
24 or investments of cash balances shall be credited to the Special Reserve Oil Overcharge  
25 Funds.

26 (d) The funds and interest thereon received from the Diamond Shamrock  
27 Settlement that remain in a reserve in the Office of State Budget and Management for the  
28 Department of Commerce to administer the petroleum overcharge funds pursuant to  
29 Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to the  
30 Department of Commerce on an as-needed basis.

31 (e) The Department of Commerce shall submit comprehensive annual reports  
32 to the General Assembly by May 15, 1998, and January 31, 1999, which detail the use of  
33 all Petroleum Overcharge Funds. Any State department or agency that has received  
34 Petroleum Overcharge Funds shall provide all information requested by the Department  
35 of Commerce for the purpose of preparing these reports.

36  
37 Requested by: Senator Martin of Pitt

#### 38 **INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH**

39 Section 14.8. Local governments requesting financial assistance from the  
40 Industrial Development Fund that wish to request to be exempted from the local  
41 matching requirements placed on the receipt of this assistance shall demonstrate to the  
42 satisfaction of the Department of Commerce that it would be an economic hardship for

1 the local government to match State assistance from the Fund with local funds. The  
2 Department shall develop guidelines for determining hardship.

3  
4 Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom

5 **INDUSTRIAL DEVELOPMENT FUND**

6 Section 14.9. (a) Of the three million dollars (\$3,000,000) appropriated in this  
7 act to the Department of Commerce, Industrial Development Fund, for the 1997-98 fiscal  
8 year, the sum of two million dollars (\$2,000,000) shall be deposited to and used for the  
9 Utility Account established under G.S. 143B-437A(b1), and the sum of one million  
10 dollars (\$1,000,000) shall be allocated to Martin County as a grant-in-aid for a water and  
11 sewer project.

12 (b) In addition to the reporting requirements of G.S. 143B-437A, the Department  
13 of Commerce shall report annually to the General Assembly concerning the payments  
14 made from the Utility Account and the impact of the payments on job creation in the  
15 State. The Department of Commerce shall also report quarterly to the Joint Legislative  
16 Commission on Governmental Operations and the Fiscal Research Division on the use of  
17 the moneys in the Utility Account including information regarding to whom payments  
18 were made, in what amounts, and for what purposes.

19  
20 Requested by: Senator Martin of Pitt

21 **REGIONAL COMMISSION REPORTS**

22 Section 14.10. (a) Each regional development commission receiving a grant-in-  
23 aid from the Department of Commerce shall:

- 24 (1) By January 15, 1998, and more frequently as requested, report to the  
25 Joint Legislative Commission on Governmental Operations, the Fiscal  
26 Research Division, and the Department of Commerce the following  
27 information:
- 28 a. State fiscal year 1996-97 program activities, objectives, and  
29 accomplishments;
  - 30 b. State fiscal year 1996-97 itemized expenditures and fund  
31 sources;
  - 32 c. State fiscal year 1997-98 planned activities, objectives, and  
33 accomplishments as specified in subsection (b)(1) through (b)(6)  
34 of this section including actual results through December 31,  
35 1997;
  - 36 d. State fiscal year 1997-98 estimated itemized expenditures and  
37 fund sources including actual expenditures and fund sources  
38 through December 31, 1997.
- 39 (2) By January 15, 1999, and more frequently as requested, report to the  
40 Joint Legislative Commission on Governmental Operations, the Fiscal  
41 Research Division, and the Department of Commerce the following  
42 information:



- 1 a. State fiscal year 1997-98 program activities, objectives, and  
2 accomplishments;
- 3 b. State fiscal year 1997-98 itemized expenditures and fund  
4 sources;
- 5 c. State fiscal year 1998-99 planned activities, objectives, and  
6 accomplishments as specified in subsection (b)(1) through (b)(6)  
7 of this section including actual results through December 31,  
8 1998;
- 9 d. State fiscal year 1998-99 estimated itemized expenditures and  
10 fund sources including actual expenditures and fund sources  
11 through December 31, 1998.
- 12 (3) Provide to the Fiscal Research Division and the Department of  
13 Commerce a copy of its annual audited financial statement within 30  
14 days of issuance of the statement.
- 15 (b) Each regional economic development commission receiving a grant-in-aid  
16 from the Department of Commerce in each fiscal year of the 1997-99 biennium shall by  
17 the 25th day of the month following the end of a fiscal quarter, report to the Department  
18 of Commerce the following information for the most recent completed fiscal quarter:
- 19 (1) The number of and description of marketing outreach events including  
20 trade shows, recruitment missions, and related activities;
- 21 (2) The number of inquiries, leads, and prospects generated;
- 22 (3) The amount of investment and number of jobs created by the direct  
23 efforts of a commission;
- 24 (4) The amount of investment and number of jobs created by the indirect  
25 efforts of a commission;
- 26 (5) The number and listing of available sites and buildings within the region  
27 served by a commission;
- 28 (6) A listing of major accomplishments.
- 29  
30

31 Requested by: Senator Martin of Pitt

### 32 REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

33 Section 14.11. (a) Funds appropriated in this act to the Department of  
34 Commerce for regional economic development commissions shall be allocated to the  
35 following commissions in accordance with subsection (b) of this section: Western North  
36 Carolina Regional Economic Development Commission, Research Triangle Regional  
37 Commission, Southeastern North Carolina Regional Economic Development  
38 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional  
39 Economic Development Commission, Global TransPark Development Commission, and  
40 Carolinas Partnership, Inc.

41 (b) Funds appropriated pursuant to subsection (a) of this section shall be allocated  
42 to each regional economic development commission as follows:

- 1 (1) First, the Department shall establish each commission's allocation by  
2 determining the sum of allocations to each county that is a member of  
3 that commission. Each county's allocation shall be determined by  
4 dividing the county's enterprise factor by the sum of the enterprise  
5 factors for eligible counties and multiplying the resulting percentage by  
6 the amount of the appropriation. As used in this subdivision, the term  
7 "enterprise factor" means a county's enterprise factor as calculated under  
8 G.S. 105-129.3;
- 9 (2) Next, the Department shall subtract from funds allocated to the Global  
10 TransPark Development Zone the sum of two hundred seventy-six  
11 thousand nine hundred twenty-three dollars (\$276,923) in each fiscal  
12 year, which sum represents the interest earnings in each fiscal year on  
13 the estimated balance of seven million five hundred thousand dollars  
14 (\$7,500,000) appropriated to the Global TransPark Development Zone  
15 in Section 6 of Chapter 561 of the 1993 Session Laws; and
- 16 (3) Next, the Department shall redistribute the sum of two hundred seventy-  
17 six thousand nine hundred twenty-three dollars (\$276,923) in each fiscal  
18 year to the seven regional economic development commissions named  
19 in subsection (a) of this section. Each commission's share of this  
20 redistribution shall be determined according to the enterprise factor  
21 formula set out in subdivision (1) of this subsection. This redistribution  
22 shall be in addition to each commission's allocation determined under  
23 subdivision (1) of this subsection.

24  
25 Requested by: Senator Martin of Pitt

26 **TOURISM PROMOTION FUNDS**

27 Section 14.12. Funds appropriated in this act to the Department of Commerce  
28 for tourism promotion grants shall be allocated according to per capita income,  
29 unemployment, and population growth in an effort to direct funds to counties most in  
30 need in terms of lowest per capita income, highest unemployment, and slowest  
31 population growth, in the following manner:

- 32 (1) Counties 1 through 20 are each eligible to receive a maximum grant of  
33 \$7,500 for each fiscal year, provided these funds are matched on the  
34 basis of one non-State dollar for every four State dollars.
- 35 (2) Counties 21 through 50 are each eligible to receive a maximum grant of  
36 \$3,500 for two of the next three fiscal years, provided these funds are  
37 matched on the basis of one non-State dollar for every three State  
38 dollars.
- 39 (3) Counties 51 through 100 are each eligible to receive a maximum grant  
40 of \$3,500 for alternating fiscal years, beginning with the 1991-92 fiscal  
41 year, provided these funds are matched on the basis of four non-State  
42 dollars for every State dollar.
- 43

1 Requested by: Senator Martin of Pitt

2 **RURAL TOURISM DEVELOPMENT FUNDS**

3 Section 14.13. Of the funds appropriated in this act to the Department of  
4 Commerce for the 1997-98 fiscal year, the sum of three hundred thousand dollars  
5 (\$300,000) shall be used for the Rural Tourism Development Grant Program. The  
6 Department shall establish and implement this Program to provide grants to local  
7 governments and nonprofit organizations to encourage the development of new tourism  
8 projects and activities in rural areas of the State. The Department shall develop  
9 procedures for the administration and distribution of funds allocated to the Rural Tourism  
10 Development Program under the following guidelines:

- 11 (1) Eligible organizations shall make application under procedures  
12 established by the Department;
- 13 (2) Eligible organizations shall be nonprofit tourism-related organizations  
14 located in the State's rural regions;
- 15 (3) Priority shall be given to eligible organizations that have significant  
16 involvement of travel and tourism-related businesses;
- 17 (4) Priority shall be given to eligible organizations serving economically  
18 distressed rural counties;
- 19 (5) Priority shall be given to eligible organizations that match funds; and
- 20 (6) Funds shall not be used for renting or purchasing land or buildings, or  
21 for financing debt.

22 No recipient or new tourism project shall receive a total of more than fifty  
23 thousand dollars (\$50,000) of these grant funds for the 1997-98 fiscal year.

24

25 Requested by: Senator Martin of Pitt

26 **WANCHESE SEAFOOD INDUSTRIAL PARK FUNDS**

27 Section 14.14. Of the funds appropriated in this act to the Department of  
28 Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-  
29 two thousand five hundred ninety-four dollars (\$122,594) for the 1997-98 fiscal year and  
30 the sum of one hundred twenty-two thousand five hundred ninety-four dollars (\$122,594)  
31 for the 1998-99 fiscal year may be expended by the North Carolina Seafood Industrial  
32 Park Authority for operations, maintenance, repair, and capital improvements in  
33 accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds  
34 available to the Authority for these purposes.

35

36 Requested by: Senator Martin of Pitt

37 **FUNDS FOR ECONOMIC DEVELOPMENT**

38 Section 14.15. (a) Of the funds appropriated in this act to the Department of  
39 Commerce, the sum of one million seven hundred fifty-five thousand dollars  
40 (\$1,755,000) for the 1997-98 fiscal year shall be allocated as follows:

- 41 (1) \$300,000 to the Land Loss Prevention Project, Inc., to provide free legal  
42 representation to low-income, financially distressed small farmers. The  
43 Land Loss Prevention Project, Inc., shall not use these funds to

1 represent farmers who have income and assets that would make them  
2 financially ineligible for legal services pursuant to Title 45, Part 1611 of  
3 the Code of Federal Regulations;

4 (2) \$250,000 to the North Carolina Coalition of Farm and Rural Families,  
5 Inc., for its Small Farm Economic Development Project. These funds  
6 shall be used to foster economic development within the State's rural  
7 farm communities by offering marketing and technical assistance to  
8 small and limited resource farmers;

9 (3) \$830,000 to the North Carolina Institute for Minority Economic  
10 Development, Inc., to foster minority economic development within the  
11 State through policy analysis, information and technical assistance,  
12 resource expansion, and support of community-based demonstration  
13 initiatives; and

14 (4) \$375,000 to the North Carolina Minority Support Center (formerly  
15 known as the Minority Credit Union Support Center) for technical  
16 assistance to community-based minority credit unions.

17 (b) Each of the nonprofit organizations receiving funds under this section shall:

18 (1) By January 15, 1998, and more frequently as requested, report to the  
19 Joint Legislative Commission on Governmental Operations and the  
20 Fiscal Research Division the following information:

21 a. State fiscal year 1996-97 program activities, objectives, and  
22 accomplishments;

23 b. State fiscal year 1996-97 itemized expenditures and fund  
24 sources;

25 c. State fiscal year 1997-98 planned activities, objectives, and  
26 accomplishments including actual results through December 31,  
27 1997; and

28 d. State fiscal year 1997-98 estimated itemized expenditures and  
29 fund sources including actual expenditures and fund sources  
30 through December 31, 1997.

31 (2) Provide to the Fiscal Research Division a copy of the organization's  
32 annual audited financial statement within 30 days of issuance of the  
33 statement.

34  
35 Requested by: Senator Martin of Pitt

### 36 **TECHNOLOGICAL DEVELOPMENT AUTHORITY REPORT**

37 Section 14.16. The Technological Development Authority, Inc., shall do the  
38 following:

39 (1) By January 15, 1998, and more frequently as requested, report to the  
40 Joint Legislative Commission on Governmental Operations and the  
41 Fiscal Research Division the following information:

42 a. State fiscal year 1996-97 program activities, objectives, and  
43 accomplishments;

- 1                   b.     State fiscal year 1996-97 itemized expenditures and fund  
2                   sources;
- 3                   c.     State fiscal year 1997-98 planned activities, objectives, and  
4                   accomplishments including actual results through December 31,  
5                   1997; and
- 6                   d.     State fiscal year 1997-98 estimated itemized expenditures and  
7                   fund sources including actual expenditures and fund sources  
8                   through December 31, 1997;
- 9           (2)    By January 15, 1999, and more frequently as requested, report to the  
10           Joint Legislative Commission on Governmental Operations and the  
11           Fiscal Research Division the following information:
- 12           a.     State fiscal year 1997-98 program activities, objectives, and  
13           accomplishments;
- 14           b.     State fiscal year 1997-98 itemized expenditures and fund  
15           sources;
- 16           c.     State fiscal year 1998-99 planned activities, objectives, and  
17           accomplishments including actual results through December 31,  
18           1998; and
- 19           d.     State fiscal year 1998-99 estimated itemized expenditures and  
20           fund sources including actual expenditures and fund sources  
21           through December 31, 1998; and
- 22           (3)    Provide to the Fiscal Research Division a copy of the organization's  
23           annual audited financial statement within 30 days of issuance of the  
24           statement.
- 25

26 Requested by: Senator Martin of Pitt

27 **WORLD TRADE CENTER FUNDS**

28           Section 14.17. Of the funds appropriated in this act to the Department of  
29 Commerce, the sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal  
30 year shall be allocated to the World Trade Center North Carolina (WTCNC) to support  
31 international trade education programs for small- and medium-sized businesses. The  
32 World Trade Center North Carolina shall:

- 33           (1)    By January 15, 1998, and more frequently as requested, report to the  
34           Joint Legislative Commission on Governmental Operations and the  
35           Fiscal Research Division the following information:
- 36           a.     State fiscal year 1996-97 program activities, objectives, and  
37           accomplishments;
- 38           b.     State fiscal year 1996-97 itemized expenditures and fund  
39           sources;
- 40           c.     State fiscal year 1997-98 planned activities, objectives, and  
41           accomplishments including actual results through December 31,  
42           1997;

- 1                   d.     State fiscal year 1997-98 estimated itemized expenditures and  
2                   fund sources including actual expenditures and fund sources  
3                   through December 31, 1997.
- 4           (2)     Provide to the Fiscal Research Division a copy of the Center's annual  
5           audited financial statement within 30 days of issuance of the statement.  
6

7 Requested by: Senator Martin of Pitt

8 **CENTER FOR COMMUNITY SELF-HELP FUNDS**

9     Section 14.18. (a)     Of the funds appropriated in this act to the Department of  
10 Commerce, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year shall  
11 be allocated to the Center for Community Self-Help to further a statewide program of  
12 lending for home ownership throughout North Carolina. These funds will be leveraged  
13 on a ten-to-one basis, generating at least ten dollars (\$10.00) of nontraditional home loans  
14 for every one dollar (\$1.00) of State funds. Payments of principal shall be available for  
15 further loans or loan guarantees.

16     (b)     The Center for Community Self-Help shall submit, within 180 days after the  
17 close of its fiscal year, audited financial statements to the State Auditor. All records  
18 pertaining to the use of State funds shall be made available to the State Auditor upon  
19 request. The Center for Community Self-Help shall make quarterly reports on the use of  
20 State funds to the State Auditor, in form and format prescribed by the State Auditor or his  
21 designee. The Center for Community Self-Help shall make a written report by May 1 of  
22 each year for the next three years to the General Assembly on the use of the funds  
23 allocated under this section.

24     (c)     The Center for Community Self-Help shall report to the Joint Legislative  
25 Commission on Governmental Operations, the House Appropriations Subcommittee on  
26 Natural and Economic Resources, the Senate Appropriations Committee on Natural and  
27 Economic Resources, and the Department of Commerce on a quarterly basis for the next  
28 three years.

29     (d)     The Office of the State Auditor may conduct an annual end-of-year audit of the  
30 revolving fund for economic development lending created by this appropriation for each  
31 year of the life of the revolving fund.

32     (e)     If the Center for Community Self-Help dissolves, the corporation shall  
33 transfer the remaining assets of the revolving fund to the State and shall refrain from  
34 disposing of the revolving fund assets without approval of the State Treasurer.

35     (f)     The Department of Commerce shall disburse this appropriation within 15  
36 working days of the receipt of a request for the funds from the Center for Community  
37 Self-Help. The request shall include a commitment of the leveraged funds by the Center  
38 for Community Self-Help or its affiliates.  
39

40 Requested by: Senator Martin of Pitt

41 **MCNC**

1 Section 14.19. (a) MCNC shall report on all of its programs including  
2 contractual services for the Supercomputer and the Research and Education Network.  
3 The reports shall:

- 4 (1) By January 15, 1998, and more frequently as requested, report to the  
5 Joint Legislative Commission on Governmental Operations and the  
6 Fiscal Research Division the following information:  
7 a. State fiscal year 1996-97 program activities, objectives, and  
8 accomplishments;  
9 b. State fiscal year 1996-97 itemized expenditures and fund  
10 sources;  
11 c. State fiscal year 1997-98 planned activities, objectives, and  
12 accomplishments including actual results through December 31,  
13 1997;  
14 d. State fiscal year 1997-98 estimated itemized expenditures and  
15 fund sources including actual expenditures and fund sources  
16 through December 31, 1997.  
17 e. The users, major projects and benefits resulting from the  
18 activities of the Supercomputer and the Research and Education  
19 Network.  
20 f. The organization's progress toward achieving self-sufficiency by  
21 July 1, 1999.
- 22 (2) By January 15, 1999, and more frequently as requested, report to the  
23 Joint Legislative Commission on Governmental Operations and the  
24 Fiscal Research Division the following information:  
25 a. State fiscal year 1997-98 program activities, objectives, and  
26 accomplishments;  
27 b. State fiscal year 1997-98 itemized expenditures and fund  
28 sources;  
29 c. State fiscal year 1998-99 planned activities, objectives, and  
30 accomplishments including actual results through December 31,  
31 1998;  
32 d. State fiscal year 1998-99 estimated itemized expenditures and  
33 fund sources including actual expenditures and fund sources  
34 through December 31, 1998.  
35 e. The users, major projects and benefits resulting from the  
36 activities of the Supercomputer and the Research and Education  
37 Network.  
38 f. The organization's progress toward achieving self-sufficiency by  
39 July 1, 1999.
- 40 (3) Provide to the Fiscal Research Division a copy of MCNC's annual  
41 audited financial statement within 30 days of issuance of the statement.
- 42 (b) The funds appropriated in this act to MCNC shall be used as follows:

43 FY 1997-98

FY 1998-99

1 Electronic and Information  
2 Technologies Programs \$4,500,000  
3 \$2,500,000

4 (c) Of the funds appropriated for the Electronic and Information Technologies  
5 Programs, four million five hundred thousand dollars (\$4,500,000) for the 1997-98 fiscal  
6 year and two million five hundred thousand dollars (\$2,500,000) for the 1998-99 fiscal  
7 year is contingent upon a dollar-for-dollar match in non-State funds.

8

9 Requested by: Senator Martin of Pitt

10 **BIOTECHNOLOGY CENTER**

11 Section 14.20. (a) The North Carolina Biotechnology Center shall recapture  
12 funds spent in support of successful research and development efforts in the for-profit  
13 private sector.

14 (b) The North Carolina Biotechnology Center shall provide funding for  
15 biotechnology, biomedical, and related bioscience applications under its Business and  
16 Science Technology Programs.

17 (c) The North Carolina Biotechnology Center shall:

18 (1) By January 15, 1998, and more frequently as requested, report to the  
19 Joint Legislative Commission on Governmental Operations and the  
20 Fiscal Research Division the following information:

21 a. State fiscal year 1996-97 program activities, objectives, and  
22 accomplishments;

23 b. State fiscal year 1996-97 itemized expenditures and fund  
24 sources;

25 c. state fiscal year 1997-98 planned activities, objectives, and  
26 accomplishments including actual results through December 31,  
27 1997; and

28 d. State fiscal year 1997-98 estimated itemized expenditures and  
29 fund sources including actual expenditures and fund sources  
30 through December 31, 1997.

31 (2) By January 15, 1999, and more frequently as requested, report to the  
32 Joint Legislative Commission on Governmental Operations and the  
33 Fiscal Research Division the following information:

34 a. State fiscal year 1997-98 program activities, objectives, and  
35 accomplishments;

36 b. State fiscal year 1997-98 itemized expenditures and fund  
37 sources;

38 c. State fiscal year 1998-99 planned activities, objectives, and  
39 accomplishments including actual results through December 31,  
40 1998; and

41 d. State fiscal year 1998-99 estimated itemized expenditures and  
42 fund sources including actual expenditures and fund sources  
43 through December 31, 1998.



1 (3) Provide to the Fiscal Research Division a copy of the Center's annual  
2 audited financial statement within 30 days of issuance of the statement.

3 (d) The North Carolina Biotechnology Center shall provide a report containing  
4 detailed budget, personnel, and salary information to the Office of State Budget and  
5 Management and to the Fiscal Research Division in the same manner as State  
6 departments and agencies in preparation for biennium budget requests.

7  
8 Requested by: Senator Martin of Pitt

### 9 **BIOTECHNOLOGY FUNDS FOR MINORITY UNIVERSITIES**

10 Section 14.21. Of the funds appropriated in this act from the General Fund to  
11 the North Carolina Biotechnology Center for the 1997-98 and the 1998-99 fiscal years,  
12 the sum of one million dollars (\$1,000,000) in each fiscal year shall be used to continue  
13 the special biotechnology program initiative for North Carolina's Public Historically  
14 Black Universities and Pembroke State University. This program initiative is a means to  
15 get more funds to these institutions of higher education in the short run to help them  
16 develop their biotechnology programs and a means to develop a mechanism to improve  
17 these institutions' capacity over the long term. The Center's special initiative shall, at a  
18 minimum, provide for:

19 (1) A range of program activities, including grants, designed to enhance the  
20 existing strengths and capabilities of Pembroke State University, and the  
21 Public Historically Black Universities;

22 (2) A Facilities and Infrastructure Review Committee to advise the Center  
23 on major program elements and priority projects that would be most  
24 helpful to these institutions; and

25 (3) A Program Advisory Panel with representation from these institutions to  
26 advise and make recommendations to the Center's President and Board  
27 of Directors on funding proposals under this initiative.

28 The Center shall report on its biotechnology program grants to universities to  
29 the Joint Legislative Commission on Governmental Operations and the Fiscal Research  
30 Division on or before March 1 of each fiscal year, and more frequently as requested by  
31 the Commission. These reports shall include the current number of enrollments and the  
32 capacity of enrollments in the biotechnology program in each of the universities, the  
33 number of faculty in the biotechnology program in each of the universities, whether and  
34 to what extent the enrollments, capacity, and number of faculty have changed in the last  
35 three academic years in the biotechnology program in each of the universities, how the  
36 funds allocated by this section are being used in each of the universities, and any other  
37 information that indicates whether these grants are accomplishing their purpose.

38  
39 Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom

### 40 **RURAL ECONOMIC DEVELOPMENT CENTER**

41 Section 14.22. (a) Of the funds appropriated in this act to the Rural Economic  
42 Development Center, Inc., the sum of one million two hundred seventy thousand dollars

1 (\$1,270,000) for the 1997-98 fiscal year and the sum of one million two hundred seventy  
 2 thousand dollars (\$1,270,000) for the 1998-99 fiscal year shall be allocated as follows:

	<u>1997-98 FY</u>	<u>1998-99 FY</u>
3 Research and Demonstration Grants	\$475,864	\$475,864
4 Technical Assistance and Center		
5 Administration of Research		
6 and Demonstration Grants	444,136	444,136
7 Center Administration, Oversight,		
8 and Other Programs	350,000	350,000

10 (b) The Rural Economic Development Center, Inc., shall provide a report  
 11 containing detailed budget, personnel, and salary information to the Office of State  
 12 Budget and Management in the same manner as State departments and agencies in  
 13 preparation for biennium budget requests.

14 (c) Not more than fifty percent (50%) of the interest earned on State funds  
 15 appropriated to the Rural Economic Development Center, Inc., may be used by the  
 16 Center for administrative purposes, including salaries and fringe benefits.

17 (d) For purposes of this section, the term "community development  
 18 corporation" means a nonprofit corporation:

- 19 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 20 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code  
 21 of 1986;
- 22 (3) Whose primary mission is to develop and improve low-income  
 23 communities and neighborhoods through economic and related  
 24 development;
- 25 (4) Whose activities and decisions are initiated, managed, and controlled by  
 26 the constituents of those local communities; and
- 27 (5) Whose primary function is to act as deal-maker and packager of projects  
 28 and activities that will increase their constituencies' opportunities to  
 29 become owners, managers, and producers of small businesses,  
 30 affordable housing, and jobs designed to produce positive cash flow and  
 31 curb blight in the targeted community.

32 (e) Of the funds appropriated in this act to the Rural Economic Development  
 33 Center, Inc., the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year and  
 34 the sum of two million four hundred thousand dollars (\$2,400,000) for the 1998-99 fiscal  
 35 year shall be allocated as follows:

- 36 (1) \$1,400,000 in fiscal year 1997-98 and \$1,200,000 in fiscal year 1998-99  
 37 for community development grants to support development projects and  
 38 activities within the State's minority communities. Any community  
 39 development corporation as defined in this section is eligible to apply  
 40 for funds. The Rural Economic Development Center, Inc., shall  
 41 establish performance-based criteria for determining which community  
 42 development corporation will receive a grant and the grant amount.  
 43 Funding shall also be allocated to the North Carolina Association of

1 Community Development Corporations, Inc. The Rural Economic  
2 Development Center, Inc., shall allocate these funds as follows:

- 3 a. \$900,000 in each fiscal year for direct grants to the local  
4 community development corporations that have previously  
5 received State funds for this purpose to support operations and  
6 project activities;
- 7 b. \$250,000 in each fiscal year for direct grants to local community  
8 development corporations that have not previously received State  
9 funds;
- 10 c. \$200,000 in fiscal year 1997-98 to the North Carolina  
11 Association of Community Development Corporations, Inc., to  
12 provide training, technical assistance, resource development, and  
13 support for local community development corporations  
14 statewide; and
- 15 d. \$50,000 in each fiscal year to the Rural Economic Development  
16 Center, Inc., to be used to cover expenses in administering this  
17 section.

18 (2) \$250,000 in each fiscal year to the Microenterprise Loan Program to  
19 support the loan fund and operations of the Program; and

20 (3) \$3,350,000 for the 1997-98 fiscal year and \$950,000 for the 1998-99  
21 fiscal year shall be used for a program to provide supplemental funding  
22 for matching requirements for economic development in economically  
23 depressed areas. The Center shall use these funds to make grants to  
24 local governments and nonprofit corporations to provide funds  
25 necessary to match federal grants or other grants for necessary  
26 economic development projects and activities in economically  
27 depressed areas. The grant recipients shall be selected on the basis of  
28 need.

29 (f) The Rural Economic Development Center, Inc., shall:

30 (1) By January 15, 1998, 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 1996-97 program activities, objectives, and  
34 accomplishments;
- 35 b. State fiscal year 1996-97 itemized expenditures and fund  
36 sources;
- 37 c. State fiscal year 1997-98 planned activities, objectives, and  
38 accomplishments including actual results through December 31,  
39 1997; and
- 40 d. State fiscal year 1997-98 estimated itemized expenditures and  
41 fund sources including actual expenditures and fund sources  
42 through December 31, 1997.

- 1           (2) By January 15, 1999, 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 1997-98 program activities, objectives, and  
5           accomplishments;  
6           b. State fiscal year 1997-98 itemized expenditures and fund  
7           sources;  
8           c. State fiscal year 1998-99 planned activities, objectives, and  
9           accomplishments including actual results through December 31,  
10           1998; and  
11           d. State fiscal year 1998-99 estimated itemized expenditures and  
12           fund sources including actual expenditures and fund sources  
13           through December 31, 1998.  
14           (3) Provide to the Fiscal Research Division a copy of each grant recipient's  
15           annual audited financial statement within 30 days of issuance of the  
16           statement.

17  
18 Requested by: Senator Martin of Pitt

19 **COMMUNITY DEVELOPMENT INITIATIVE**

20           Section 14.23. Of the funds appropriated in this act to the Rural Economic  
21           Development Center, Inc., the sum of two million dollars (\$2,000,000) for fiscal year  
22           1997-98 and the sum of two million dollars (\$2,000,000) for fiscal year 1998-99 shall be  
23           used to support the grant and loan fund and operations of the North Carolina Community  
24           Development Initiative, Inc. The Initiative shall provide operating and project activity  
25           grants to mature community development corporations that have demonstrated project  
26           and organizational capacity.

27           The North Carolina Community Development Initiative, Inc., shall:

- 28           (1) By January 15, 1998, and more frequently as requested, report to the  
29           Joint Legislative Commission on Governmental Operations and the  
30           Fiscal Research Division the following information:  
31           a. State fiscal year 1996-97 program activities, objectives, and  
32           accomplishments;  
33           b. State fiscal year 1996-97 itemized expenditures and fund  
34           sources;  
35           c. State fiscal year 1997-98 planned activities, objectives, and  
36           accomplishments including actual results through December 31,  
37           1997;  
38           d. State fiscal year 1997-98 estimated itemized expenditures and  
39           fund sources including actual expenditures and fund sources  
40           through December 31, 1997.  
41           (2) By January 15, 1999, and more frequently as requested, report to the  
42           Joint Legislative Commission on Governmental Operations and the  
43           Fiscal Research Division the following information:

- 1 a. State fiscal year 1997-98 program activities, objectives, and  
2 accomplishments;
  - 3 b. State fiscal year 1997-98 itemized expenditures and fund  
4 sources;
  - 5 c. State fiscal year 1998-99 planned activities, objectives, and  
6 accomplishments including actual results through December 31,  
7 1998;
  - 8 d. State fiscal year 1998-99 estimated itemized expenditures and  
9 fund sources including actual expenditures and fund sources  
10 through December 31, 1998.
- 11 (3) Provide to the Fiscal Research Division a copy of the Initiative's annual  
12 audited financial statement within 30 days of issuance of the statement.  
13

14 Requested by: Senator Martin of Pitt

#### 15 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

16 Section 14.24. (a) Of the funds appropriated in this act to the Rural Economic  
17 Development Center, Inc., the sum of two hundred fifty thousand dollars (\$250,000) for  
18 the 1997-98 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000) for  
19 the 1998-99 fiscal year shall be allocated as follows:

- 20 (1) \$50,000 in each fiscal year to the Opportunities Industrialization Center  
21 of Wilson, Inc., for its ongoing job training programs;
- 22 (2) \$50,000 in each fiscal year to Opportunities Industrialization Center,  
23 Inc., in Rocky Mount, for its ongoing job training programs;
- 24 (3) \$50,000 in each fiscal year to Pitt-Greenville Opportunities  
25 Industrialization Center, Inc., for its ongoing job training programs;
- 26 (4) \$50,000 in each fiscal year to the Opportunities Industrialization Center  
27 of Lenoir, Green, and Jones Counties; and
- 28 (5) \$50,000 in each fiscal year to the Opportunities Industrialization Center  
29 of Elizabeth City, Inc.

30 (b) The Rural Economic Development Center, Inc., shall:

- 31 (1) By January 15, 1998, and more frequently as requested, report to  
32 the Joint Legislative Commission on Governmental Operations  
33 and the Fiscal Research Division the following information:
  - 34 a. State fiscal year 1996-97 program activities, objectives, and  
35 accomplishments;
  - 36 b. State fiscal year 1996-97 itemized expenditures and fund  
37 sources;
  - 38 c. State fiscal year 1997-98 planned activities, objectives, and  
39 accomplishments including actual results through December 31,  
40 1997;
  - 41 d. State fiscal year 1997-98 estimated itemized expenditures and  
42 fund sources including actual expenditures and fund sources  
43 through December 31, 1997.

- 1 (2) By January 15, 1999, 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 1997-98 program activities, objectives, and  
5 accomplishments;  
6 b. State fiscal year 1997-98 itemized expenditures and fund  
7 sources;  
8 c. State fiscal year 1998-99 planned activities, objectives, and  
9 accomplishments including actual results through December 31,  
10 1998;  
11 d. State fiscal year 1998-99 estimated itemized expenditures and  
12 fund sources including actual expenditures and fund sources  
13 through December 31, 1998.  
14 (3) Provide to the Fiscal Research Division a copy of the annual audited  
15 financial statements of the Opportunities Industrialization Centers  
16 funded by this act within 30 days of issuance of the statement.  
17

18 Requested by: Senators Conder, Plyler

#### 19 RECREATION DISTRICT ABC PERMITS

20 Section 14.25. G.S. 18B-1006(j) reads as rewritten:

21 "(j) Recreation Districts. – Notwithstanding the provisions of Article 6 of this  
22 Chapter, the Commission may issue permits for the sale of malt beverages, unfortified  
23 wine, fortified wine, and mixed beverages to qualified businesses in a recreation district.

24 A 'recreation district' ~~is an is:~~

- 25 (1) An area that is located in a county that has not approved the issuance of  
26 permits, has at least two cities that have approved the sale of malt  
27 beverages, wine, and the operation of an ABC store, and contains a  
28 facility of at least 450 acres where five or more public auto racing  
29 events are held each year. ~~The recreation district includes the area~~  
30 ~~within a half mile radius of the racing facility.~~ year; or  
31 (2) An area that is located in a county that borders a county which has held  
32 elections pursuant to G.S. 18B-600(f) and borders on another state and  
33 which (i) contains a facility of at least 225 acres where four or more  
34 public auto racing events are held each year or (ii) contains a facility of  
35 at least 140 acres where 80 or more motor sports events are held each  
36 year.

37 The recreation district includes the area within a half-mile radius of the racing  
38 facility."

39  
40 Requested by: Senator Lee

#### 41 GUEST ROOM CABINETS FOR CERTAIN PRIVATE CLUBS

42 Section 14.26. G.S. 18B-1001(13) reads as rewritten:

1           "(13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a  
2           hotel having a mixed beverages permit or a private club having a mixed  
3           beverages permit and management contracts for the rental of living units  
4           to sell to its room guests, from securely locked cabinets, malt beverages,  
5           unfortified wine, fortified wine, and spirituous liquor. A permittee shall  
6           designate and maintain at least ten percent (10%) of the permittee's  
7           guest rooms as rooms that do not have a guest room cabinet. A  
8           permittee may dispense alcoholic beverages from a guest room cabinet  
9           only in accordance with written policies and procedures filed with and  
10          approved by the Commission. A permittee shall provide a reasonable  
11          number of vending machines, coolers, or similar machines on premises  
12          for the sale of soft drinks to hotel guests.

13          A guest room cabinet permit may be issued for any of the following:

- 14          a.       A hotel located in a county subject to G.S. 18B-600(f).  
15          b.       A hotel located in a county that has a population in excess of  
16                150,000 by the last federal census.  
17          c.       A qualifying private club located in a county defined in G.S.  
18                18B-101(13a)b.2."

## 19           **PART XV. JUDICIAL DEPARTMENT**

20           Requested by: Senator Gulley

### 21           **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

22           Section 15. Funds appropriated to the Judicial Department in the 1997-99  
23           biennium for equipment and supplies shall be certified in a reserve account. The  
24           Administrative Office of the Courts shall have the authority to transfer these funds to the  
25           appropriate programs and between programs as the equipment priorities and supply  
26           consumptions occur during the operating year. These funds shall not be expended for  
27           any other purpose. The Administrative Office of the Courts shall make quarterly reports  
28           on transfers made pursuant to this section to the Joint Legislative Commission on  
29           Governmental Operations and the Chairs of the Senate and House Appropriations  
30           Subcommittees on Justice and Public Safety.  
31           

32           Requested by: Senators Gulley, Ballance

### 33           **N.C. STATE BAR FUNDS**

34           Section 15.1. (a) Of the funds appropriated in the continuation budget as a grant-in-  
35           aid to the North Carolina State Bar for the 1997-99 fiscal biennium, the North Carolina  
36           State Bar may in its discretion use up to the sum of two hundred fifty thousand dollars  
37           (\$250,000) for the 1997-98 fiscal year and up to the sum of two hundred fifty thousand  
38           dollars (\$250,000) for the 1998-99 fiscal year to contract with the Center for Death  
39           Penalty Litigation to provide training, consultation, brief banking, and other assistance to  
40           attorneys representing indigent capital defendants.  
41

1 (b) Of the nonrecurring funds appropriated in the expansion budget as a grant-in-  
2 aid to the North Carolina State Bar for the 1997-98 fiscal year, the North Carolina State  
3 Bar may in its discretion use up to the sum of two hundred fifty thousand dollars  
4 (\$250,000) to contract with the Center for Death Penalty Litigation to provide training,  
5 consultation, brief banking, and other assistance to attorneys representing indigent capital  
6 defendants.

7  
8 Requested by: Senator Gulley

9 **INDIGENT PERSONS' ATTORNEY FEE FUND**

10 Section 15.2. (a) Effective July 1, 1997, the Administrative Office of the Courts shall  
11 each year of the 1997-99 biennium reserve funds for adult, juvenile, and guardian ad  
12 litem cases from the Indigent Persons' Attorney Fee Fund. These funds shall be allotted  
13 to each judicial district in which the superior and district courts are coterminous, and  
14 otherwise by county, according to the caseload of indigent persons who were not  
15 represented by the public defender in the districts or counties during 1996-97 and 1997-  
16 98, respectively. The remaining available funds in the Indigent Persons' Attorney Fee  
17 Fund shall be budgeted for capital cases and for transcripts, professional examinations,  
18 expert witness fees, and other supporting services.

19 The Administrative Office of the Courts shall notify all senior resident superior  
20 court judges, all chief district court judges, and the clerk of superior court within the  
21 district or county immediately after the allotment is made and shall provide a monthly  
22 report on the status of the allotment for the district or county.

23 The senior resident superior court judge and the chief district court judge of  
24 each district or county shall ask all judges holding court within the district or county: (i)  
25 to take into consideration the amount of money allotted at the beginning of the fiscal year  
26 and the amount of money remaining in the allotment when they award counsel fees to  
27 attorneys of indigent persons, and (ii) to make an effort to award fees equally and justly  
28 for legal services provided. The clerk of superior court for each county shall ensure that  
29 all judges holding court within the county receive this request from the senior resident  
30 superior court judge and the chief district court judge.

31 (b) If the funds allotted pursuant to subsection (a) of this section are depleted in a  
32 district or county prior to the end of the fiscal year, the Administrative Office of the  
33 Courts shall allot any available funds from the reserve fund specified in subsection (a) or  
34 from unanticipated receipts. However, if necessary and appropriate due to unusual and  
35 unanticipated circumstances occurring in the current year, the Administrative Office of  
36 the Courts may allocate available funds to a district or county in a manner calculated to  
37 result in the reasonably fair distribution of remaining funds.

38 (c) If funds allocated in subsections (a) and (b) of this section are depleted in a  
39 district or county prior to the end of the fiscal year, the Administrative Office of the  
40 Courts shall allot available funds from the Public Defender program.

41 (d) If the funds allotted pursuant to subsections (a), (b), and (c) of this section are  
42 depleted in a district or county prior to the end of the fiscal year, the Administrative  
43 Office of the Courts is authorized to transfer funds between districts or counties only if



1 the Administrative Office of the Courts determines that the funds transferred will not be  
2 needed to meet the obligations incurred by the Indigent Persons' Attorney Fee Fund for  
3 the county or district from which the funds are transferred for the fiscal year.

4  
5 Requested by: Senator Gulley

6 **REPORT ON DISPUTE SETTLEMENT CENTERS**

7 Section 15.3. (a) All local dispute settlement centers currently receiving State funds  
8 shall report annually to the Judicial Department on the program's funding and activities,  
9 including:

- 10 (1) Types of dispute settlement services provided;
- 11 (2) Clients receiving each type of dispute settlement service;
- 12 (3) Number and type of referrals received, cases actually mediated, cases  
13 resolved in mediation, and total clients served in the cases mediated;
- 14 (4) Total program funding and funding sources;
- 15 (5) Itemization of the use of funds, including operating expenses and  
16 personnel;
- 17 (6) Itemization of the use of State funds appropriated to the center;
- 18 (7) Level of volunteer activity; and
- 19 (8) Identification of future service demands and budget requirements.

20 The Judicial Department shall compile and summarize the information  
21 provided pursuant to this subsection and shall provide the information to the Chairs of the  
22 House and Senate Appropriations Committees and the Chairs of the House and Senate  
23 Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

24 (b) A local dispute settlement center requesting State funds for the first time shall  
25 provide the General Assembly with the information enumerated in subsection (a) of this  
26 section, or projections where historical data are not available, as well as a detailed  
27 statement justifying the need for State funding.

28 (c) Each local dispute settlement center receiving State funds for the first time  
29 shall document in the information provided pursuant to G.S. 7A-346.1 that, after the  
30 second year of receiving State funds, at least ten percent (10%) of total funding comes  
31 from non-State sources.

32 (d) Each local dispute settlement center receiving State funds for the third, fourth,  
33 or fifth year shall document that at least twenty percent (20%) of total funding comes  
34 from non-State sources.

35 (e) Each local dispute settlement center receiving State funds for six or more  
36 years shall document that at least fifty percent (50%) of total funding comes from non-  
37 State sources.

38 (f) Each local dispute settlement center currently receiving State funds that has  
39 achieved a funding level from non-State sources greater than that provided for that center  
40 by subsection (c), (d), or (e) of this section shall make a good faith effort to maintain that  
41 level of funding.

42 (g) The percentage that State funds comprise of the total funding of each  
43 dispute settlement center shall be determined at the conclusion of each fiscal year with

1 the information provided pursuant to G.S. 7A-346.1 and is intended as a funding ratio  
2 and not a matching funds requirement. Local dispute settlement centers may include the  
3 market value of donated office space, utilities, and professional legal and accounting  
4 services in determining total funding.

5 (h) A local dispute settlement center having difficulty meeting the funding  
6 ratio provided for that center by subsection (c), (d), or (e) of this section may request a  
7 waiver or special consideration through the Administrative Office of the Courts for  
8 consideration by the Senate and House Appropriations Subcommittees on Justice and  
9 Public Safety.

10 (i) The provisions of G.S. 143-31.4 do not apply to local dispute settlement  
11 centers receiving State funds.

12  
13  
14 Requested by: Senator Gulley

#### 15 **COMMUNITY PENALTIES PROGRAM**

16 Section 15.4. (a) Of the funds appropriated from the General Fund to the Judicial  
17 Department for the 1997-99 biennium to conduct the Community Penalties Program, the  
18 sum of four million four hundred five thousand three hundred eighty-two dollars  
19 (\$4,405,382) for the 1997-98 fiscal year and the sum of four million four hundred five  
20 thousand three hundred eighty-two dollars (\$4,405,382) for the 1998-99 fiscal year may  
21 be allocated by the Judicial Department in each year of the biennium in any amount  
22 among existing community penalties programs, including any State-operated programs,  
23 or may be used to establish new community penalties programs.

24 (b) The Judicial Department shall report annually to the Senate and  
25 House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal  
26 Research Division on the administrative expenditures of the community penalties  
27 programs. The Judicial Department shall report quarterly to the Joint Legislative  
28 Commission on Governmental Operations on any elimination or reduction of funding for  
29 community penalties programs funded in the 1996-97 fiscal year or any program  
30 receiving initial funding during the 1997-99 biennium.

31  
32  
33 Requested by: Senators Gulley, Ballance

#### 34 **DRUG TREATMENT COURT FUNDS**

35 Section 15.5. (a) Funds appropriated to the Judicial Department for the 1997-98 fiscal  
36 year for the North Carolina Drug Treatment Court Program shall be used primarily for  
37 substance abuse treatment and related program needs, but the sum of fifty-two thousand  
38 five hundred fifty-one dollars (\$52,551) may be used to fund one program administrator  
39 position.

40 (b) Of the funds appropriated to the Judicial Department in the 1996-97 fiscal year  
41 for the North Carolina Drug Treatment Court Program, the sum of one hundred thousand  
42 dollars (\$100,000) shall not revert at the end of the fiscal year, but shall remain in the  
43 Department during the 1997-98 fiscal year to be used for nonrecurring program items.

1 (c) Subsection (b) of this section becomes effective June 30, 1997.

2  
3 Requested by: Senators Gulley, Ballance

4 **MAKE SENTENCING COMMISSION PERMANENT**

5 Section 15.6. (a)Section 8 of Chapter 1076 of the 1989 Session Laws, as amended by  
6 Chapters 812 and 816 of the 1991 Session Laws, Chapters 253, 321, and 591 of the 1993  
7 Session Laws, and Chapter 236 of the 1995 Session Laws, reads as rewritten:

8 "Sec. 8. This act is effective upon ~~ratification, and shall expire July 1, 1997.~~  
9 ratification."

10 (b) G.S. 164-38 reads as rewritten:

11 **"§ 164-38. Terms of members; compensation; expenses.**

12 The terms of existing members shall expire on June 30, ~~1995, 1997,~~ unless they resign  
13 or are removed. New members shall be appointed or the existing members reappointed by  
14 the appointing authorities to serve ~~until July 1, 1997,~~ terms of two years, unless they  
15 resign or are removed. Members serving by virtue of elective or appointive office or as  
16 designees of such officeholders may serve only so long as the officeholders hold those  
17 respective offices. Members appointed by the Speaker of the House and the President Pro  
18 Tempore of the Senate may be removed by the appointing authority without cause.  
19 Vacancies occurring before the expiration of a term shall be filled in the manner provided  
20 for the members first appointed. A member of the Commission may be removed only for  
21 disability, neglect of duty, incompetence, or malfeasance in office. Before removal, the  
22 member is entitled to a hearing. Effective with respect to members designated on or after  
23 July 1, 1992, a person making a designation pursuant to G.S. 164-37 may not make  
24 another designation, except that the person's successor in elective or appointive office  
25 may make a new designation.

26 The Commission members shall receive no salary for serving. All Commission  
27 members shall receive necessary subsistence and travel expenses in accordance with the  
28 provisions of G.S. 120-3.1, 138-5, and 138-6 as applicable."

29 (c) G.S. 164-36 reads as rewritten:

30 **"§ 164-36. Powers and duties.**

31 Sentences established for violations of the State's criminal laws should be based on  
32 the established purposes of our criminal justice and corrections systems. The  
33 Commission shall evaluate sentencing laws and policies in relationship to both the stated  
34 purposes of the criminal justice and corrections systems and the availability of sentencing  
35 options. The Commission shall make recommendations to the General Assembly for the  
36 modification of sentencing laws and policies, and for the addition, deletion, or expansion  
37 of sentencing options as necessary to achieve policy goals. The Commission shall make  
38 a report of its recommendations, including any recommended legislation, to the General  
39 Assembly annually."

40  
41 Requested by: Senator Gulley

42 **VICTIM'S RIGHTS AMENDMENT/VICTIM WITNESS ASSISTANTS**

1 Section 15.7. The victim witness assistants funded in this act are intended to  
2 support the implementation of the Victims' Rights Amendment to the North Carolina  
3 Constitution and to address the current workload. These positions shall be allocated on  
4 the basis of workload and population. The Judicial Department shall report to the Joint  
5 Legislative Commission on Governmental Operations on the allocation of these positions  
6 by November 1, 1997.

7  
8 Requested by: Senator Gulley

9 **COMPUTER TRAINING**

10 Section 15.8. Prior to the allocation of laptop computers funded in this act for  
11 superior court and district court judges, each judge requesting a laptop computer shall  
12 complete a training course provided by the Administrative Office of the Courts in the use  
13 of a laptop computer and the appropriate software.

14  
15 Requested by: Senator Gulley

16 **CRIMINAL CASE MANAGEMENT FUNDS**

17 Section 15.9. (a) The criminal case docket management programs funded in  
18 this act shall be distributed in a manner that ensures representation in all areas of the  
19 State.

20 (b) The Administrative Office of the Courts shall report by April 1, 1998, to  
21 the Chairs of the Senate and House Appropriations Committees and the Chairs of the  
22 Senate and House Appropriations Subcommittees on Justice and Public Safety on the  
23 criminal case management programs established in 10 judicial districts. The report shall  
24 assess the success of these 10 programs in reducing the backlog of court cases and  
25 resolving new court cases more quickly and shall include recommendations for the  
26 location of additional criminal case management programs in the 1998-99 fiscal year.

27  
28 Requested by: Senator Gulley

29 **RESERVE FOR TECHNOLOGY**

30 Section 15.10. The Administrative Office of the Courts shall establish a task  
31 force consisting of representatives of clerks of superior court, district attorneys, superior  
32 and district court judges, and magistrates to formulate a plan for the most efficient and  
33 effective use of funds appropriated to the Reserve for Technology. The plan shall  
34 address those items requested in the Administrative Office of the Courts' expansion  
35 budget, including:

- 36 (1) Automated forms in courtrooms, clerks' offices, and district attorneys'  
37 offices;
- 38 (2) District attorney and public defender case management systems;
- 39 (3) New personal computers for district attorneys, public defenders, and  
40 clerks of court;
- 41 (4) Technology support personnel; and
- 42 (5) Magistrate criminal information system.

1 If the task force determines that the funding amounts for these projects should  
 2 be adjusted or that other projects not enumerated above should receive funding from the  
 3 Reserve for Technology, it shall make those recommendations to the Administrative  
 4 Office of the Courts.

5 Prior to the expenditure of funds appropriated to the Reserve for Technology,  
 6 the Administrative Office of the Courts shall report the findings of the task force by  
 7 November 1, 1997, to the Joint Legislative Commission on Governmental Operations, the  
 8 Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate  
 9 and House Appropriations Subcommittees on Justice and Public Safety.

10  
 11 Requested by: Senator Gulley

12 **DRUG COURT STUDY**

13 Section 15.11. Prior to the expenditure of funds appropriated in this act for an  
 14 additional drug court program, the Administrative Office of the Courts shall study the  
 15 feasibility of establishing that court as a regional drug court that could serve several  
 16 districts on a rotating basis. If the Administrative Office of the Courts determines that  
 17 such an arrangement is not feasible, the funds shall be allocated to a district experiencing  
 18 a backlog of drug cases.

19 The Administrative Office of the Courts shall report its findings to the Joint  
 20 Legislative Commission on Governmental Operations by September 1, 1997.

21  
 22 Requested by: Senator Gulley

23 **ADDITIONAL ASSISTANT DISTRICT ATTORNEYS/REESTABLISH**  
 24 **ASSISTANT DISTRICT ATTORNEY POSITIONS IN DISTRICTS 19B AND 20**

25 Section 15.12. (a) G.S. 7A-60(a1) reads as rewritten:

26 "(a1) The counties of the State are organized into prosecutorial districts, and each  
 27 district has the counties and the number of full-time assistant district attorneys set forth in  
 28 the following table:

Prosecutorial			No. of Full-Time
District	Counties	Attorneys	Asst. District
1	Camden, Chowan, Currituck,	9	
	Dare, Gates, Pasquotank,		
	Perquimans		
2	Beaufort, Hyde, Martin, 5		
	Tyrrell, Washington		
3A	Pitt	8-9	
3B	Carteret, Craven, Pamlico	8-9	
4	Duplin, Jones, Onslow, <del>12-13</del>		
	Sampson		
5	New Hanover, Pender	<del>11-12</del>	
6A	Halifax	4	

1	6B	Bertie, Hertford, 4	
2		Northampton	
3	7	Edgecombe, Nash, Wilson	<del>12-15</del>
4	8	Greene, Lenoir, Wayne <del>10-11</del>	
5	9	Franklin, Granville, 9	
6		Vance, Warren	
7	9A	Person, Caswell 3	
8	10	Wake	<del>23-28</del>
9	11	Harnett, Johnston, Lee <del>11-14</del>	
10	12	Cumberland <del>14-16</del>	
11	13	Bladen, Brunswick, Columbus <del>8-9</del>	
12	14	Durham <del>10-12</del>	
13	15A	Alamance 7	
14	15B	Orange, Chatham <del>6-7</del>	
15	16A	Scotland, Hoke 4	
16	16B	Robeson 8	
17	17A	Rockingham 5	
18	17B	Stokes, Surry 5	
19	18	Guilford <del>22-27</del>	
20	19A	Cabarrus 5	
21	19B	Montgomery, Moore, Randolph <del>9-11</del>	
22	19C	Rowan 5	
23	20	Anson, Richmond, <del>12-13</del>	
24		Stanly, Union	
25	21	Forsyth <del>13-14</del>	
26	22	Alexander, Davidson, Davie, <del>13-16</del>	
27		Iredell	
28	23	Alleghany, Ashe, Wilkes, 5	
29		Yadkin	
30	24	Avery, Madison, Mitchell, 4	
31		Watauga, Yancey	
32	25	Burke, Caldwell, Catawba <del>12-13</del>	
33	26	Mecklenburg <del>29-32</del>	
34	27A	Gaston <del>10-11</del>	
35	27B	Cleveland, <del>6-7</del>	
36		Lincoln	
37	28	Buncombe 9	
38	29	Henderson, McDowell, Polk, 10	
39		Rutherford, Transylvania	
40	30	Cherokee, Clay, Graham, 7	
41		Haywood, Jackson, Macon,	
42		Swain."	

1 (b) Subsections (c) and (d) of Section 5 of Chapter 589 of the 1995 Session  
 2 Laws are repealed.

3 (c) Subsection (a) of this section becomes effective October 1, 1997.  
 4

5 Requested by: Senator Gulley

6 **ADDITIONAL DISTRICT COURT JUDGES**

7 Section 15.13. (a) G.S. 7A-133(a) reads as rewritten:

8 "(a) Each district court district shall have the numbers of judges as set forth in the  
 9 following table:  
 10

District	Judges	County
1	4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	3 Martin	Beaufort Tyrrell Hyde Washington
3A	3 Pitt	
3B	45 Craven	Pamlico Carteret
4	67 Sampson	Duplin Jones Onslow
5	6 New Hanover	Pender
6A	2 Halifax	
6B	3 Northampton	Bertie Hertford
7	6 Nash	Edgecombe Wilson
8	5 Wayne	

1			Greene
2			Lenoir
3	9	4	Granville
4			(part of Vance
5			see subsection (b))
6			Franklin
7	9A	2	Person
8			Caswell
9	9B	1	Warren
10			(part of Vance
11			see subsection (b))
12	10	<del>13</del>	Wake
13	11	<del>67</del>	Harnett
14			Johnston
15			Lee
16	12	6	Cumberland
17	13	<del>45</del>	Bladen
18			Brunswick
19			Columbus
20	14	5	Durham
21	15A	3	Alamance
22	15B	<del>34</del>	Orange
23			Chatham
24	16A	2	Scotland
25			Hoke
26	16B	5	Robeson
27	17A	2	Rockingham
28	17B	3	Stokes
29			Surry
30	18	10	Guilford
31	19A	3	Cabarrus
32	19B	5	Montgomery
33			Moore
34			Randolph
35	19C	<del>34</del>	Rowan
36	20	6	Stanly
37			Union
38			Anson
39			Richmond
40	21	7	Forsyth
41	22	<del>78</del>	Alexander
42			Davidson
43			Davie



1				Iredell
2	23	3	Alleghany	Ashe
3				Wilkes
4				Yadkin
5				
6	24	3	Avery	Madison
7				Mitchell
8				Watauga
9				Yancey
10				
11	25	7	Burke	Caldwell
12				Catawba
13				
14	26	14	Mecklenburg	
15	27A	5	Gaston	
16	27B	4	Cleveland	
17				Lincoln
18	28	5	Buncombe	
19	29	5	Henderson	
20				McDowell
21				Polk
22				Rutherford
23				Transylvania
24	30	4	Cherokee	
25				Clay 2
26				Graham 3
27				Haywood
28				Jackson
29				Macon
30				Swain."

(b) The Governor shall appoint additional district court judges for District Court Districts 3B, 4, 10, 11, 13, 15B, 19C, and 22 as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2000 election for four-year terms commencing on the first Monday in December 2000.

(c) Subsection (a) of this section becomes effective October 1, 1997, as to any district where no county is subject to Section 5 of the Voting Rights Act of 1965. As to any district where any county is subject to Section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective October 1, 1997, or 15 days after the date upon which that subsection is approved under Section 5 of the Voting Rights Act.

Requested by: Senator Gulley

**AUTHORIZE ADDITIONAL MAGISTRATES**

Section 15.14. 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	Min.-Max.	Magistrates Court	Additional Seats of
Camden	1 2		
Chowan	2 3		
Currituck	1 3		
Dare	3 8		
Gates	2 3		
Pasquotank	3 5		
Perquimans	2 3		
Martin	5 8		
Beaufort	4 8		
Tyrrell	1 3		
Hyde	2 4		
Washington	3 4		
Pitt	10 12	Farmville	Ayden
Craven	7 10	Havelock	
Pamlico	2 3		
Carteret	5 8		
Sampson	6 8		
Duplin	9 11		
Jones	2 3		
Onslow	8 14		
New Hanover	6 11		
Pender	4 6		
Halifax	9 14	Roanoke	Rapids, Scotland Neck
Northampton	5 7		
Bertie	4 6		
Hertford	5 6		
Nash	7 10	Rocky Mount	
Edgecombe	4 <del>6</del> <u>7</u>	Rocky Mount	
Wilson	4 <del>6</del> <u>7</u>		
Wayne	5 <del>11</del> <u>12</u>	Mount Olive	
Greene	2 4		
Lenoir	4 10	La Grange	
Granville	3 7		

1	Vance	3	6		
2	Warren	3	4		
3	Franklin	3	<del>6</del> <u>7</u>		
4	Person	3	4		
5	Caswell	2	5		
6	Wake	12	20	Apex,	
7					Wendell,
8					Fuquay-
9					Varina,
10					Wake Forest
11	Harnett	7	11	Dunn	
12	Johnston	10	12	Benson,	
13					Clayton,
14					Selma
15	Lee	4	6		
16	Cumberland		10	17	
17	Bladen	4	6		
18	Brunswick		4	7	
19	Columbus	6	8	Tabor City	
20	Durham	8	<del>12</del> <u>13</u>		
21	Alamance	7	10	Burlington	
22	Orange	4	11	Chapel Hill	
23	Chatham	3	8	Siler City	
24	Scotland	3	5		
25	Hoke	4	5		
26	Robeson	8	16	Fairmont,	
27					Maxton,
28					Pembroke,
29					Red Springs,
30					Rowland,
31					St. Pauls
32	Rockingham	4	9	Reidsville,	
33					Eden,
34					Madison
35	Stokes	2	5		
36	Surry	5	9	Mt. Airy	
37	Guilford	20	26	High Point	
38	Cabarrus	5	9	Kannapolis	
39	Montgomery		2	4	
40	Randolph	5	10	Liberty	
41	Rowan	5	10		
42	Stanly	5	6		
43	Union	4	6		

1	Anson	4	5	
2	Richmond		5	6 Hamlet
3	Moore	5	8	Southern
4				Pines
5	Forsyth	3	15	Kernersville
6	Alexander		2	3
7	Davidson	7	10	Thomasville
8	Davie	2	3	
9	Iredell	4	9	Mooresville
10	Alleghany		1	2
11	Ashe	3	4	
12	Wilkes	4	6	
13	Yadkin	3	5	
14	Avery	3	4	
15	Madison	4	5	
16	Mitchell	3	4	
17	Watauga	4	6	
18	Yancey	2	4	
19	Burke	4	7	
20	Caldwell	4	7	
21	Catawba	6	10	Hickory
22	Mecklenburg		15	26
23	Gaston	11	20	
24	Cleveland	5	8	
25	Lincoln	4	7	
26	Buncombe		6	15
27	Henderson		4	7
28	McDowell		3	5
29	Polk	3	4	
30	Rutherford		6	8
31	Transylvania		2	4
32	Cherokee	3	4	
33	Clay	1	2	
34	Graham	2	3	
35	Haywood	5	7	Canton
36	Jackson	3	4	
37	Macon	3	4	
38	Swain	2	3."	

39  
40 Requested by: Senators Gulley, Ballance

41 **ASSISTANT PUBLIC DEFENDERS**

42 Section 15.15. From funds appropriated to the Indigent Persons' Attorney Fee  
43 Fund for the 1997-99 biennium, the Administrative Office of the Courts may use up to

1 four hundred one thousand four hundred sixty-four dollars (\$401,464) in the 1997-98  
2 fiscal year, and up to five hundred twenty-four thousand three hundred eighty-four  
3 dollars (\$524,384) in the 1998-99 fiscal year for salaries, benefits, and related expenses to  
4 establish up to eight new assistant public defenders.

5  
6 Requested by: Senator Perdue

#### 7 **JUVENILE RECORDS FOR RECIDIVISM**

8 Section 15.16. (a) Article 54 of Chapter 7A of the General Statutes is amended  
9 by adding a new section to read:

#### 10 **"§ 7A-675.1. Records to determine recidivism rates.**

11 (a) The Administrative Office of the Courts shall maintain a record of every  
12 juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C,  
13 D, or E felony if committed by an adult for the purpose of computing statistics on the  
14 number of juveniles adjudicated delinquent for those offenses who subsequently are  
15 adjudicated delinquent or convicted. The record shall include the dispositional order and  
16 any subsequent orders of the court for each adjudication.

17 (b) The Chief Court Counselor of each judicial district shall forward the  
18 information and records required by this section to the Administrative Office of the  
19 Courts as soon as practicable but at least within 30 days of the adjudication.

20 (c) The record required pursuant to this section shall be withheld from public  
21 inspection and may be examined only by order of the court."

22 (b) The Administrative Office of the Courts shall use funds available to the Office  
23 to implement this section.

24  
25 Requested by: Senators Plyler, Perdue, Odom

#### 26 **IRMC REVIEW OF INFORMATION TECHNOLOGY PLANS OF THE** 27 **ADMINISTRATIVE OFFICE OF THE COURTS**

28 Section 15.17. (a) G.S. 143B-426.21(b) reads as rewritten:

29 "(b) Powers and Duties. – The Commission has the following powers and duties:

30 (1) To develop, approve, and publish a statewide information technology  
31 strategy covering the current and following biennium that shall be  
32 updated annually and shall be submitted to the General Assembly on the  
33 first day of each regular session.

34 (2) To develop, approve, and sponsor statewide technology initiatives and  
35 to report on those initiatives in the annual update of the statewide  
36 information technology strategy.

37 (3) To review and approve biennially the information technology plans of  
38 the executive agencies, ~~including their agencies~~ and to review and  
39 comment biennially on the information technology plans of the  
40 Administrative Office of the Courts. This review shall include plans for  
41 the procurement and use of personal computers and workstations.

- 1 (4) To recommend to the Governor and the Office of State Budget and  
2 Management the relative priorities across executive agency information  
3 technology plans.
- 4 (5) To establish a quality assurance policy for all agency information  
5 technology projects, information systems training programs, and  
6 information systems documentation.
- 7 (6) To establish and enforce a quality review and expenditure review  
8 procedure for major agency information technology projects.
- 9 (7) To review and approve expenditures from appropriations made to the  
10 Office of State Budget and Management for the purpose of creating a  
11 Computer Reserve Fund.
- 12 (8) To develop and promote a policy and procedures for the fair and  
13 competitive procurement of information technology consistent with the  
14 rules of the Department of Administration and consistent with published  
15 industry standards for open systems that provide agencies with a  
16 vendor-neutral operating environment where different information  
17 technology hardware, software, and networks operate together easily  
18 and reliably."

19 (b) The Information Resources Management Commission shall review the  
20 information technology plans of the Administrative Office of the Courts and report its  
21 findings to the Joint Legislative Commission on Governmental Operations by November  
22 1, 1997.

23  
24 Requested by: Senators Odom, Plyler, Perdue

25 **LRC STUDY OF THE ALLOCATION OF JUDICIAL RESOURCES**

26 Section 15.18. The Legislative Research Commission shall study the  
27 allocation of judicial resources, including but not limited to superior court judges, district  
28 court judges, assistant district attorneys, deputy clerks of court, assistant clerks of court,  
29 magistrates, and support staff. This study shall include a review of the existing workload  
30 and staffing formulas for judicial personnel. The Legislative Research Commission shall  
31 report the results of this study to the 1998 Regular Session of the 1997 General  
32 Assembly.

33

34 **PART XVI. DEPARTMENT OF CORRECTION**

35

36 Requested by: Senator Gulley

37 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**  
38 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**  
39 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

40 Section 16. (a) G.S. 148-29 reads as rewritten:

41 "§ 148-29. Transportation of convicts to prison; reimbursement to counties;  
42 sheriff's expense affidavit.

1 (a) The sheriff having in charge any prisoner to be taken to the State prison system  
2 shall send the prisoner to the custody of the Department of Correction within five days  
3 after sentencing and the disposal of all pending charges against the prisoner, if no appeal  
4 has been taken. Beginning on the sixth day after sentencing and disposal of all pending  
5 charges against the prisoner and continuing through the day the prisoner is received by  
6 the Division of Prisons, the Department of Correction shall pay the ~~county a~~ county:

7 (1) A standard sum set by the General Assembly in its appropriations acts  
8 for the cost of providing food, clothing, personal items, supervision, and  
9 necessary ordinary medical services to the prisoner awaiting transfer to  
10 the State prison system; and

11 (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by  
12 prisoners awaiting transfer to the State prison system.

13 (b) The sheriff having in charge any parolee or post-release supervisee to be taken  
14 to the State prison system shall send the prisoner to the custody of the Department of  
15 Correction within five days after preliminary hearing held under G.S. 15A-1368.6(b) or  
16 G.S. 15A-1376(b). Beginning on the sixth day after the hearing and continuing through  
17 the day the prisoner is received by the Division of Prisons, the Department of Correction  
18 shall pay the county:

19 (1) A standard sum set by the General Assembly in its appropriations acts  
20 for the cost of providing food, clothing, personal items, supervision, and  
21 necessary ordinary medical services to the parolee or post-release  
22 supervisee awaiting transfer to the State prison system; and

23 (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by  
24 parolees or post-release supervisees awaiting transfer to the State prison  
25 system.

26 (c) The sheriff shall file with the board of commissioners of his county a copy of  
27 his affidavit as to necessary guard, together with a copy of his itemized account of  
28 expenses, both certified to by him as true copies of those on file in his office."

29 (b) The Department of Correction may use funds appropriated to the Department  
30 for the 1997-99 biennium to pay the sum of forty dollars (\$40.00) per day as  
31 reimbursement to counties for the cost of housing convicted inmates and parolees and  
32 post-release supervisees awaiting transfer to the State prison system, as provided in G.S.  
33 148-29. The Department shall report quarterly to the Joint Legislative Commission on  
34 Governmental Operations, the Joint Legislative Corrections Oversight Committee, the  
35 Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate  
36 and House Appropriations Subcommittees on Justice and Public Safety on the  
37 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its  
38 progress in reducing the jail backlog.

39 Prior to the expenditure of more than the sum of six million five hundred  
40 thousand dollars (\$6,500,000) for the 1997-98 fiscal year or more than the sum of four  
41 million dollars (\$4,000,000) for the 1998-99 fiscal year to reimburse counties for  
42 prisoners awaiting transfer, the Department of Correction and the Office of State Budget

1 and Management shall report to the Joint Legislative Commission on Governmental  
2 Operations on the necessity of that expenditure.

3  
4 Requested by: Senator Gulley

5 **INMATE HOUSING FUNDS**

6 Section 16.1. The Department of Correction may use funds appropriated to the  
7 Department for the 1997-98 fiscal year to contract for prison beds to house inmates in  
8 out-of-state prisons or in local jails. The Department shall report quarterly to the Joint  
9 Legislative Commission on Governmental Operations, the Joint Legislative Corrections  
10 Oversight Committee, the Chairs of the Senate and House Appropriations Committees,  
11 and the Chairs of the Senate and House Appropriations Subcommittees on Justice and  
12 Public Safety on these contracts. The report shall include the amount expended monthly  
13 for each contract, the source of funding used to pay for the contracts, the status of each  
14 contract, and the projected dates for returning the inmates housed out-of-state or in local  
15 jails to the State prison system.

16 Prior to the expenditure of more than the sum of six million dollars  
17 (\$6,000,000) to fund contracts for out-of-state and local jail beds, the Department of  
18 Correction and the Office of State Budget and Management shall report to the Joint  
19 Legislative Commission on Governmental Operations on the necessity of that  
20 expenditure.

21  
22 Requested by: Senator Gulley

23 **EXEMPTION FROM LICENSURE AND CERTIFICATE OF NEED**

24 Section 16.2. (a) Inpatient chemical dependency or substance abuse facilities that  
25 provide services exclusively to inmates of the Department of Correction shall be exempt  
26 from licensure by the Department of Human Resources under Chapter 122C of the  
27 General Statutes. If an inpatient chemical dependency or substance abuse facility  
28 provides services both to inmates of the Department of Correction and to members of the  
29 general public, the portion of the facility that serves inmates shall be exempt from  
30 licensure.

31 (b) Any person who contracts to provide inpatient chemical dependency or  
32 substance abuse services to inmates of the Department of Correction may construct and  
33 operate a new chemical dependency or substance abuse facility for that purpose without  
34 first obtaining a certificate of need from the Department of Human Resources pursuant to  
35 Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition  
36 developed for that purpose without a certificate of need shall not be licensed pursuant to  
37 Chapter 122C of the General Statutes and shall not admit anyone other than inmates  
38 unless the owner or operator first obtains a certificate of need.

39 (c) This section applies to existing facilities, as well as future facilities contracting  
40 with the Department of Correction.

41  
42 Requested by: Senator Gulley

43 **LIMIT USE OF OPERATIONAL FUNDS**



1 Section 16.3. Funds appropriated in this act to the Department of Correction  
2 for operational costs for additional facilities shall be used for personnel and operating  
3 expenses set forth in the budget approved by the General Assembly in this act. These  
4 funds shall not be expended for any other purpose, except as provided for in this act, and  
5 shall not be expended for additional prison personnel positions until the new facilities are  
6 within 90 days of projected completion, except for certain management, security, and  
7 support positions necessary to prepare the facility for opening, as authorized in the budget  
8 approved by the General Assembly.

9  
10 Requested by: Senator Gulley

#### 11 **USE OF FACILITIES CLOSED UNDER GPAC**

12 Section 16.4. In conjunction with the closing of small expensive prison units  
13 recommended for consolidation by the Government Performance Audit Committee, the  
14 Department of Correction shall consult with the county or municipality in which the unit  
15 is located or any private for-profit or nonprofit firm about the possibility of converting  
16 that unit to other use. Consistent with existing law, the Department may provide for the  
17 lease of any of these units to counties, municipalities, or private firms wishing to convert  
18 them to other use. The Department of Correction may also consider converting some of  
19 the units recommended for closing from medium security to minimum security, where  
20 that conversion would be cost-effective.

21 The Department of Correction shall report quarterly to the Joint Legislative  
22 Corrections Oversight Committee on the conversion of these units to other use.

23  
24 Requested by: Senator Gulley

#### 25 **FEDERAL GRANT REPORTING**

26 Section 16.5. The Department of Correction, the Department of Justice, the  
27 Department of Crime Control and Public Safety, and the Judicial Department shall report  
28 by December 1 and May 1 of each year to the Joint Legislative Commission on  
29 Governmental Operations, the Chairs of the Senate and House Appropriations  
30 Committees, and the Chairs of the Senate and House Appropriations Subcommittees on  
31 Justice and Public Safety on federal grant funds received or pre-approved for receipt by  
32 those departments. The report shall include information on the amount of grant funds  
33 received or preapproved for receipt by each department, the use of the funds, and the  
34 State match expended to receive the funds.

35  
36 Requested by: Senator Gulley

#### 37 **HARRIET'S HOUSE FUNDS/FUNDS SHALL NOT REVERT**

38 Section 16.6. (a) Funds appropriated in this act to the Department of Correction to  
39 support the programs of Harriet's House may be used for program operating costs, the  
40 purchase of equipment, and the rental of real property. Harriet's House shall report by  
41 December 1 and May 1 of each year to the Joint Legislative Commission on  
42 Governmental Operations on the expenditure of State appropriations and on the

1 effectiveness of the program including information on the number of clients served and  
2 the number of clients who successfully complete the Harriet's House program.

3 (b) The balance of the two hundred thousand dollars (\$200,000) appropriated in  
4 Chapter 507 of the 1995 Session Laws to the Department of Correction for the 1996-97  
5 fiscal year to support the programs at Harriet's House shall not revert at the end of the  
6 fiscal year but shall remain available to the Department during the 1997-98 fiscal year to  
7 be used for program operating costs, the purchase of equipment, and the rental of real  
8 property.

9 (c) This section becomes effective June 30, 1997.

10  
11 Requested by: Senators Gulley, Odom, Ballance

### 12 **REPORT ON SUMMIT HOUSE**

13 Section 16.7. (a) Summit House shall report by December 1 and May 1 of  
14 each year to the Joint Legislative Commission on Governmental Operations on the  
15 expenditure of State appropriations and on the effectiveness of the program, including  
16 information on the number of clients served, the number of clients who have their  
17 probation revoked, and the number of clients who successfully complete the program  
18 while housed at Summit House.

19 (b) Summit House shall report by December 1, 1998, to the Joint Legislative  
20 Commission on Governmental Operations on (i) possible expansion of the programs in  
21 Mecklenburg and Guilford Counties; (ii) on possible expansion to other areas of the  
22 State; and (iii) the status of the Wake County program. This report shall include the  
23 estimated size of the population to be served, estimated costs, and anticipated obstacles to  
24 establishment of a residential program.

25 (c) The balance of the one million one hundred three thousand seven hundred  
26 fifty-eight dollars (\$1,103,758), appropriated in Chapter 507 of the 1995 Session Laws  
27 and Chapter 18 of the Session Laws of the 1996 Second Extra Session to the Department  
28 of Correction for the 1996-97 fiscal year for support and expansion of the programs at  
29 Summit House in Greensboro and Mecklenburg and Wake Counties, shall not revert at  
30 the end of the fiscal year but shall remain in the Department during the 1997-98 fiscal  
31 year for that purpose.

32 (d) This section becomes effective June 30, 1997.

33  
34 Requested by: Senator Gulley

### 35 **MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA** 36 **STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT**

37 Section 16.8. Notwithstanding the funding formula set forth in G.S. 143B-  
38 273.15, grants made through the North Carolina State-County Criminal Justice  
39 Partnership Act for the 1997-98 fiscal year shall be distributed to the counties as specified  
40 in G.S. 143B-273.15(2) only, and not as discretionary funds. The Department may also  
41 use funds from the State-County Criminal Justice Partnership Account in order to  
42 maintain the counties' allocations of nine million six hundred thousand dollars  
43 (\$9,600,000) as provided in previous fiscal years. Appropriations not claimed or

1 expended by the counties during the 1997-99 biennium shall be distributed as specified in  
2 G.S. 143B-273.15(1).

3  
4 Requested by: Senator Gulley

5 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**  
6 **STAFFING REORGANIZATION AND REDUCTION**

7 Section 16.9. The Post-Release Supervision and Parole Commission shall  
8 report to the Joint Legislative Commission on Governmental Operations and the Joint  
9 Legislative Corrections Oversight Committee by March 1, 1998, on a staffing  
10 reorganization and reduction plan. The report shall address the impact on Commission  
11 staffing of the declining parole workload, the automation of Commission functions, and  
12 the anticipated role of the Commission in Post-Release Supervision. The report shall  
13 include a transition plan for implementing staff reductions over the next five years,  
14 including a minimum of a ten percent (10%) reduction in the 1998-99 fiscal year over the  
15 1997-98 fiscal year.

16  
17 Requested by: Senator Gulley

18 **FEDERAL MATCHING FUNDS**

19 Section 16.10. Appropriations made for the 1997-99 biennium to the Office of  
20 State Construction of the Department of Administration for the planning and construction  
21 of new prison beds are to match federal funds available for prison construction.  
22 Appropriations not needed or used to match federal funds may be made available for  
23 construction of new prison beds, segregation units, support buildings and systems, and  
24 other needed facilities.

25  
26 Requested by: Senator Gulley

27 **USE OF FEDERAL PRISON CONSTRUCTION GRANT FUNDS**

28 Section 16.11. The Department of Correction shall use federal grant funds  
29 received from the U.S. Justice Department as part of the Violent Offender Incarceration  
30 Program and the Truth-In-Sentencing Incentive Grant Program for the further planning  
31 and design and construction of the following State prison facilities, provided that the  
32 project meets the criteria of the federal grant program:

<u>Facility</u>	<u>Location</u>	<u>Number of Beds</u>	<u>Custody</u>
34 Central Prison	Wake	196	Close
36 Diagnostic Center			
37 Warren Correctional	Warren	168	Med/Close
38 Institution			
39 Improvements to	Wake	208	Med/Close
40 NCCIW			
41 Scotland Facility	Scotland	712	Close
42 Alexander Facility	Alexander	520	Close
43 Metro Facility	Charlotte	520	Close

## Area

No more than the sum of seventeen million five hundred thousand dollars (\$17,500,000) in federal funds may be allocated to the Central Prison Diagnostic Center Project, the proposed revised Phase I of the Central Prison Master Plan, or the planning and design of the Warren, NCCIW, or Metro projects until federal funds have been allocated to complete the working drawings phase of planning and design for the Alexander and Scotland Close Custody Prison Facilities.

The Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee on the allocation of any federal funds received and of anticipated future federal grant funds.

Requested by: Senators Gulley, Ballance

**SUBSTANCE ABUSE FUNDS**

Section 16.12. (a) Of the funds appropriated in the continuation budget to the Department of Correction for the 1997-99 biennium for private prison substance abuse beds, the Department shall allocate for the 1997-98 fiscal year up to the sum of one million two hundred thousand dollars (\$1,200,000) to a Reserve for Substance Abuse and Impact Program Aftercare for community corrections programs that emphasize offender aftercare, with emphasis on substance abuse aftercare programs. These programs shall include the aftercare program for the DART/DWI program at Cherry Hospital, the IMPACT aftercare program, and other aftercare programs for parolees, probationers, and post-release supervisees. The Department shall allocate at least the sum of five hundred thousand dollars (\$500,000) to the DART/DWI aftercare program and at least the sum of sixty thousand dollars (\$60,000) for an evaluation of the Department's substance abuse programs. The evaluation study shall review and update findings from the study of Department of Correction substance abuse programs funded by the General Assembly in Section 19.1 of Chapter 507 of the 1995 Session Laws, expand the study to include aftercare programs funded in this section, and develop proposed performance measures for the Department's substance abuse programs.

(b) Prior to the expenditure of more than the sum of six hundred thousand dollars (\$600,000) of the funds allocated to the Reserve for Substance Abuse and Impact Program Aftercare, the Secretary of Correction shall report to the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the allocation of funding to date for community corrections programs, the justification for those allocations, and the proposed allocation of the remaining funds in the Reserve. The Secretary shall also report to the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 15, 1998, on the cost and benefits of those programs funded and the results of the substance abuse evaluation study. Both of these reports

1 shall also address the Department's progress in contracting for additional private  
2 treatment beds.

3  
4 Requested by: Senator Gulley

5  
6 **REPORT ON DART/DWI PROGRAM AT CHERRY HOSPITAL**

7 Section 16.13. The Department of Correction shall report by December 1,  
8 1997, and by May 1, 1998, to the Joint Legislative Corrections Oversight Committee, the  
9 Chairs of the Senate and House Appropriations Committees, and the Chairs of the  
10 Appropriations Subcommittees on Justice and Public Safety on the residential  
11 DWI/Substance Abuse Treatment Program for probationers and parolees at the DART  
12 facility at Cherry Hospital. The report shall include monthly statistical summaries of  
13 population versus capacity and comparisons of the percentage of offenders entering the  
14 program versus those completing the program, for both probationers and parolees. The  
15 report shall also include a budget report showing expenditures by purpose. If the  
16 program is not operating at capacity by the end of each reporting period, the Department  
17 of Correction shall explain the reasons for underutilization and its proposed strategies for  
18 addressing the problem of underutilization. Any new initiatives that would revise or  
19 expand the treatment model at the facility, along with the accompanying costs, shall also  
20 be included in each report.

21  
22 Requested by: Senator Gulley

23 **ADDITIONAL PRISON BEDS/INCREASE THE CRIMINAL PENALTY FOR**  
24 **THE SALE OF CERTAIN CONTROLLED SUBSTANCES/INCREASE THE**  
25 **CRIMINAL PENALTY FOR CERTAIN EMBEZZLEMENT**  
26 **OFFENSES/RECLASSIFY OFFENSE OF ACCESSORY AFTER THE**  
27 **FACT/INCREASE PENALTY FOR VOLUNTARY MANSLAUGHTER FROM A**  
28 **CLASS E FELONY TO A CLASS D FELONY/REQUIRE ACTIVE TIME FOR**  
29 **HABITUAL IMPAIRED DRIVING CONVICTIONS/INCREASE THE PENALTY**  
30 **FOR CERTAIN OFFENSES COMMITTED WHILE A PERSON IS**  
31 **INCARCERATED/ADD TO THE LIST OF AGGRAVATING FACTORS THAT**  
32 **CERTAIN PEOPLE WERE SERIOUSLY INJURED AS A RESULT OF THE**  
33 **OFFENSE/INCREASE THE PENALTY FOR THE ESTABLISHMENT OF**  
34 **PYRAMID DISTRIBUTION PLANS/ESTABLISH THE OFFENSES OF**  
35 **TRESPASS ON PINE STRAW PRODUCTION LAND AND LARCENY OF PINE**  
36 **STRAW/INCREASE THE PENALTY FROM A MISDEMEANOR TO A CLASS**  
37 **H FELONY FOR THE OFFENSES OF FALSELY REPORTING THAT A BOMB**  
38 **OR OTHER DESTRUCTIVE DEVICE MAY EXPLODE AND PERPETRATING**  
39 **A HOAX BY USING A FALSE DESTRUCTIVE DEVICE/ADD TO THE LIST OF**  
40 **AGGRAVATING FACTORS THAT THE OFFENSE WAS COMMITTED IN**  
41 **ASSOCIATION WITH A CRIMINAL STREET GANG/FELONY TO CONCEAL**  
42 **MERCHANDISE BY USING A LEAD-LINED OR ALUMINUM-LINED BAG OR**

1 **OTHER DEVICE THAT WILL PREVENT THE ACTIVATION OF AN**  
2 **ANTISHOPLIFTING CONTROL DEVICE**

3 Section 16.14. (a) Of the funds appropriated to the Department of Correction in  
4 this act for the 1998-99 fiscal year, the sum of five hundred thousand dollars (\$500,000)  
5 shall be placed in a reserve to fund additional prison beds and other associated costs to  
6 implement the provisions of this section.

7 (b) G.S. 90-95(b) reads as rewritten:

8 "(b) Except as provided in subsections (h) and (i) of this section, any person who  
9 violates G.S. 90-95(a)(1) with respect to:

10 (1) A controlled substance classified in Schedule I or II shall be punished as  
11 a Class H ~~felon~~; felon, except that the sale of a controlled substance  
12 classified in Schedule I or II shall be punished as a Class G felon;

13 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be  
14 punished as a Class I felon, except that the sale of a controlled substance  
15 classified in Schedule III, IV, V, or VI shall be punished as a Class H  
16 felon. ~~but the~~ The transfer of less than 5 grams of marijuana for no  
17 remuneration shall not constitute a delivery in violation of G.S. 90-  
18 95(a)(1)."

19 (c) G.S. 14-74 reads as rewritten:

20 **"§ 14-74. Larceny by servants and other employees.**

21 If any servant or other employee, to whom any money, goods or other chattels, or any  
22 of the articles, securities or choses in action mentioned in the following section [G.S. 14-  
23 75], by his master shall be delivered safely to be kept to the use of his master, shall  
24 withdraw himself from his master and go away with such money, goods or other chattels,  
25 or any of the articles, securities or choses in action mentioned as aforesaid, or any part  
26 thereof, with intent to steal the same and defraud his master thereof, contrary to the trust  
27 and confidence in him reposed by his said master; or if any servant, being in the service  
28 of his master, without the assent of his master, shall embezzle such money, goods or  
29 other chattels, or any of the articles, securities or choses in action mentioned as  
30 aforesaid, or any part thereof, or otherwise convert the same to his own use, with like  
31 purpose to steal them, or to defraud his master thereof, the servant so offending shall be  
32 ~~punished as a Class H felon;~~ guilty of a felony: Provided, that nothing contained in this  
33 section shall extend to apprentices or servants within the age of 16 years. If the value of  
34 the money, goods, or other chattels, or any of the articles, securities, or choses in action  
35 mentioned in G.S. 14-75, is one hundred thousand dollars (\$100,000) or more, the person  
36 is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of  
37 the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one  
38 hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

39 (d) G.S. 14-90 reads as rewritten:

40 **"§ 14-90. Embezzlement of property received by virtue of office or employment.**

41 If any person exercising a public trust or holding a public office, or any guardian,  
42 administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or  
43 agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons

1 under the age of 16 years, of any person, shall embezzle or fraudulently or knowingly and  
2 willfully misapply or convert to his own use, or shall take, make away with or secrete,  
3 with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to  
4 his own use any money, goods or other chattels, bank note, check or order for the  
5 payment of money issued by or drawn on any bank or other corporation, or any treasury  
6 warrant, treasury note, bond or obligation for the payment of money issued by the United  
7 States or by any state, or any other valuable security whatsoever belonging to any other  
8 person or corporation, unincorporated association or organization which shall have come  
9 into his possession or under his care, he shall be ~~punished as a Class H felon, guilty of a~~  
10 felony. If the value of the property is one hundred thousand dollars (\$100,000) or more,  
11 the person is guilty of a Class C felony. If the value of the property is less than one  
12 hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

13 (e) G.S. 14-91 reads as rewritten:

14 **"§ 14-91. Embezzlement of State property by public officers and employees.**

15 If any officer, agent, or employee of the State, or other person having or holding in  
16 trust for the same any bonds issued by the State, or any security, or other property and  
17 effects of the same, shall embezzle or knowingly and willfully misapply or convert the  
18 same to his own use, or otherwise willfully or corruptly abuse such trust, such offender  
19 and all persons knowingly and willfully aiding and abetting or otherwise assisting therein  
20 shall be ~~punished as a Class F felon, guilty of a felony. If the value of the property is one~~  
21 hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C  
22 felony. If the value of the property is less than one hundred thousand dollars (\$100,000),  
23 a violation of this section is a Class F felony."

24 (f) G.S. 14-92 reads as rewritten:

25 **"§ 14-92. Embezzlement of funds by public officers and trustees.**

26 If an officer, agent, or employee of an entity listed below, or a person having or  
27 holding money or property in trust for one of the listed entities, shall embezzle or  
28 otherwise willfully and corruptly use or misapply the same for any purpose other than  
29 that for which such moneys or property is held, such person shall be ~~punished as a Class~~  
30 F felon, guilty of a felony. If the value of the money or property is one hundred thousand  
31 dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the  
32 money or property is less than one hundred thousand dollars (\$100,000), the person is  
33 guilty of a Class F felony. If any clerk of the superior court or any sheriff, treasurer,  
34 register of deeds or other public officer of any county, unit or agency of local  
35 government, or local board of education shall embezzle or wrongfully convert to his own  
36 use, or corruptly use, or shall misapply for any purpose other than that for which the same  
37 are held, or shall fail to pay over and deliver to the proper persons entitled to receive the  
38 same when lawfully required so to do, any moneys, funds, securities or other property  
39 which such officer shall have received by virtue or color of his office in trust for any  
40 person or corporation, such officer shall be punished as a Class F felon, guilty of a  
41 felony. If the value of the money, funds, securities, or other property is one hundred  
42 thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value  
43 of the money, funds, securities, or other property is less than one hundred thousand

1 dollars (\$100,000), the person is guilty of a Class F felony. The provisions of this section  
2 shall apply to all persons who shall go out of office and fail or neglect to account to or  
3 deliver over to their successors in office or other persons lawfully entitled to receive the  
4 same all such moneys, funds and securities or property aforesaid. The following entities  
5 are protected by this section: a county, a city or other unit or agency of local government,  
6 a local board of education, and a penal, charitable, religious, or educational institution."

7 (g) G.S. 14-93 reads as rewritten:

8 **"§ 14-93. Embezzlement by treasurers of charitable and religious organizations.**

9 If any treasurer or other financial officer of any benevolent or religious institution,  
10 society or congregation shall lend any of the moneys coming into his hands to any other  
11 person or association without the consent of the institution, association or congregation to  
12 whom such moneys belong; or, if he shall fail to account for such moneys when called  
13 on, he shall be guilty of a ~~Class H~~ felony. If the violation of this section involves money  
14 with a value of one hundred thousand dollars (\$100,000) or more, the person is guilty of a  
15 Class C felony. If the violation of this section involves money with a value of less than  
16 one hundred thousand dollars (\$100,000) or less, a violation of this section is a Class H  
17 felony."

18 (h) G.S. 14-94 reads as rewritten:

19 **"§ 14-94. Embezzlement by officers of railroad companies.**

20 If any president, secretary, treasurer, director, engineer, agent or other officer of any  
21 railroad company shall embezzle any moneys, bonds or other valuable funds or securities,  
22 with which such president, secretary, treasurer, director, engineer, agent or other officer  
23 shall be charged by virtue of his office or agency, or shall in any way, directly or  
24 indirectly, apply or appropriate the same for the use or benefit of himself or any other  
25 person, state or corporation, other than the company of which he is president, secretary,  
26 treasurer, director, engineer, agent or other officer, for every such offense the person so  
27 offending shall be guilty of a felony, and on conviction in the superior or criminal court  
28 of any county through which the railroad of such company shall pass, shall be punished  
29 as a ~~Class H~~ felon. If the value of the money, bonds, or other valuable funds or securities  
30 is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class  
31 C felony. If the value of the money, bonds, or other valuable funds or securities has  
32 value of less than one hundred thousand dollars (\$100,000), a violation of this section is a  
33 Class H felony."

34 (i) G.S. 14-97 reads as rewritten:

35 **"§ 14-97. Appropriation of partnership funds by partner to personal use.**

36 Any person engaged in a partnership business in the State of North Carolina who  
37 shall, without the knowledge and consent of his copartner or copartners, take funds  
38 belonging to the partnership business and appropriate the same to his own personal use  
39 with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of  
40 a ~~Class H~~ felony. Appropriation of partnership funds with a value of one hundred  
41 thousand dollars (\$100,000) or more by a partner is a Class C felony. Appropriation of  
42 partnership funds with the value of less than one hundred thousand dollars (\$100,000) by  
43 a partner is a Class H felony."



1 (j) G.S. 14-98 reads as rewritten:

2 **"§ 14-98. Embezzlement by surviving partner.**

3 If any surviving partner shall willfully and intentionally convert any of the property,  
4 money or effects belonging to the partnership to his own use, and refuse to account for  
5 the same on settlement, he shall be ~~punished as a Class H felon~~ guilty of a felony. If the  
6 property, money, or effects has a value of one hundred thousand dollars (\$100,000) or  
7 more, a violation of this section is a Class C felony. If the property, money, or effects has  
8 a value of less than one hundred thousand dollars (\$100,000), a violation of this section is  
9 a Class H felony."

10 (k) G.S. 14-99 reads as rewritten:

11 **"§ 14-99. Embezzlement of taxes by officers.**

12 If any officer appropriates to his own use the State, county, school, city or town taxes,  
13 he shall be guilty of embezzlement, and shall be ~~punished as a Class F felon~~ If the value  
14 of the taxes is one hundred thousand dollars (\$100,000) or more, a violation of this  
15 section is a Class C felony. If the value of the taxes is less than one hundred thousand  
16 dollars (\$100,000), a violation of this section is a Class F felony."

17 (l) G.S. 14-100(a) reads as rewritten:

18 "(a) If any person shall knowingly and designedly by means of any kind of false  
19 pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a  
20 future fulfillment or event, obtain or attempt to obtain from any person within this State  
21 any money, goods, property, services, chose in action, or other thing of value with intent  
22 to cheat or defraud any person of such money, goods, property, services, chose in action  
23 or other thing of value, such person shall be guilty of a ~~felony, and shall be punished as a~~  
24 ~~Class H felon~~ felony: Provided, that if, on the trial of anyone indicted for such crime, it  
25 shall be proved that he obtained the property in such manner as to amount to larceny or  
26 embezzlement, the jury shall have submitted to them such other felony proved; and no  
27 person tried for such felony shall be liable to be afterwards prosecuted for larceny or  
28 embezzlement upon the same facts: Provided, further, that it shall be sufficient in any  
29 indictment for obtaining or attempting to obtain any such money, goods, property,  
30 services, chose in action, or other thing of value by false pretenses to allege that the party  
31 accused did the act with intent to defraud, without alleging an intent to defraud any  
32 particular person, and without alleging any ownership of the money, goods, property,  
33 services, chose in action or other thing of value; and upon the trial of any such  
34 indictment, it shall not be necessary to prove either an intent to defraud any particular  
35 person or that the person to whom the false pretense was made was the person defrauded,  
36 but it shall be sufficient to allege and prove that the party accused made the false pretense  
37 charged with an intent to defraud. If the value of the money, goods, property, services,  
38 chose in action, or other thing of value is one hundred thousand dollars (\$100,000) or  
39 more, a violation of this section is a Class C felony. If the value of the money, goods,  
40 property, services, chose in action, or other thing of value is less than one hundred  
41 thousand dollars (\$100,000), a violation of this section is a Class H felony."

42 (m) G.S. 53-129 reads as rewritten:

43 **"§ 53-129. Misapplication, embezzlement of funds, etc.**

1       Whoever being an officer, employee, agent or director of a bank, with intent to  
2 defraud or injure the bank, or any person or corporation, or to deceive an officer of the  
3 bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or  
4 misapplies any of the money, funds, credit or property of such bank, whether owned by it  
5 or held in trust, or who, with such intent, willfully and fraudulently issues or puts forth a  
6 certificate of deposit, draws an order or bill of exchange, makes an acceptance, assigns a  
7 note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously borrows or  
8 solicits, obtains or receives money for a bank not in good faith, intended to become the  
9 property of such bank; or whoever being an officer, employee, agent, or director of a  
10 bank, makes or permits the making of a false statement or certificate, as to a deposit, trust  
11 fund or contract, or makes or permits to be made a false entry in a book, report, statement  
12 or record of such bank, or conceals or permits to be concealed by any means or manner,  
13 the true and correct entries of said bank, or its true and correct transactions, who  
14 knowingly loans, or permits to be loaned, the funds or credit of any bank to any insolvent  
15 company or corporation, or corporation which has ceased to exist, or which never had  
16 any existence, or upon collateral consisting of stocks or bonds of such company or  
17 corporation, or who makes or publishes or knowingly permits to be made or published a  
18 false report, statement or certificate as to the true financial condition of such bank, shall  
19 be ~~punished as a Class H felon.~~ guilty of a felony. If an offense committed under this  
20 section involves money, funds, credit or property with a value of one hundred thousand  
21 dollars (\$100,000) or more, it is a Class C felony. If an offense committed under this  
22 section involves money, funds, credit or property with a value of less than one hundred  
23 thousand dollars (\$100,000), it is a Class H felony. Any other offense committed under  
24 this section is a Class H felony."

25       (n) G.S. 58-2-162 reads as rewritten:

26 **"§ 58-2-162. Embezzlement by insurance agents, brokers, or administrators.**

27       If any insurance agent, broker, or administrator embezzles or fraudulently converts to  
28 his own use, or, with intent to use or embezzle, takes, secretes, or otherwise disposes of,  
29 or fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies any  
30 money, negotiable instrument, or other consideration received by him in his performance  
31 as an agent, broker, or administrator, he shall be ~~punished as a Class H felon.~~ guilty of a  
32 felony. If the value of the money, negotiable instrument, or other consideration is one  
33 hundred thousand dollars (\$100,000) or more, violation of this section is a Class C  
34 felony. If the value of the money, negotiable instrument, or other consideration is less  
35 than one hundred thousand dollars (\$100,000), violation of this section is a Class H  
36 felony."

37       (o) G.S. 90-210.70(a) reads as rewritten:

38       "(a) Anyone who embezzles or who fraudulently, or knowingly and willfully  
39 misapplies, or in any manner converts preneed funeral funds to his own use, or for the use  
40 of any partnership, corporation, association, or entity for any purpose other than as  
41 authorized by this Article; or anyone who takes, makes away with or secretes, with intent  
42 to embezzle or fraudulently or knowingly and willfully misapply or in any manner  
43 convert preneed funeral funds for his own use or the use of any other person for any

1 purpose other than as authorized by this Article shall be ~~punished as a Class H felon.~~  
2 guilty of a felony. If the value of the ~~preneed~~ funeral funds is one hundred thousand  
3 dollars (\$100,000) or more, violation of this section is a Class C felony. If the value of  
4 the preneed funeral funds is less than one hundred thousand dollars (\$100,000), violation  
5 of this section is a Class H felony. Each such embezzlement, conversion, or  
6 misapplication shall constitute a separate offense and may be prosecuted individually.  
7 Upon conviction, all licenses issued under this Article shall be revoked."

8 (p) G.S. 14-7 reads as rewritten:

9 **"§ 14-7. Accessories after the fact; trial and punishment.**

10 If any person shall become an accessory after the fact to any felony, whether the same  
11 be a felony at common law or by virtue of any statute made, or to be made, such person  
12 shall be guilty of a ~~felony, crime,~~ and may be indicted and convicted together with the  
13 principal felon, or after the conviction of the principal felon, or may be indicted and  
14 convicted for such ~~felony crime~~ whether the principal felon shall or shall not have been  
15 previously convicted, or shall or shall not be amenable to ~~justice, and shall be punished as~~  
16 ~~a Class H felon.~~ justice. Unless a different classification is expressly stated, that person  
17 shall be punished for an offense that is two classes lower than the felony the principal  
18 felon committed, except that an accessory after the fact to a Class A or Class B1 felony is  
19 a Class C felony, an accessory after the fact to a Class B2 felony is a Class D felony, an  
20 accessory after the fact to a Class H felony is a Class 1 misdemeanor, and an accessory  
21 after the fact to a Class I felony is a Class 2 misdemeanor. The offense of such person  
22 may be inquired of, tried, determined and punished by any court which shall have  
23 jurisdiction of the principal felon, in the same manner as if the act, by reason whereof  
24 such person shall have become an accessory, had been committed at the same place as the  
25 principal felony, although such act may have been committed without the limits of the  
26 State; and in case the principal felony shall have been committed within the body of any  
27 county, and the act by reason whereof any person shall have become accessory shall have  
28 been committed within the body of any other county, the offense of such person guilty of  
29 a felony as aforesaid may be inquired of, tried, determined, and punished in either of said  
30 counties: Provided, that no person who shall be once duly tried for such felony shall be  
31 again indicted or tried for the same offense."

32 (q) G.S. 14-18 reads as rewritten:

33 **"§ 14-18. Punishment for manslaughter.**

34 Voluntary manslaughter shall be punishable as a Class ~~E-D~~ felony, and involuntary  
35 manslaughter shall be punishable as a Class F felony."

36 (r) G.S. 20-138.5(b) reads as rewritten:

37 "(b) A person convicted of violating this section shall be punished as a Class G  
38 felon. Notwithstanding the dispositions authorized in G.S. 15A-1340.17 for Class G  
39 felonies, the court shall impose an active term of imprisonment. The term of  
40 imprisonment shall be consistent with the durations specified for that class of offense and  
41 prior record level. Sentences imposed under this subsection shall run consecutively with  
42 and shall commence at the expiration of any sentence being served."

43 (s) G.S. 14-255 reads as rewritten:

1 **"§ 14-255. Escape of working prisoners from custody.**

2 If any prisoner removed from the local confinement facility or satellite jail/work  
3 release unit of a county pursuant to G.S. 162-58 shall escape from the person having him  
4 in custody or the person supervising him, he shall be guilty of a Class ~~3-1~~ misdemeanor."

5 (t) G.S. 14-256 reads as rewritten:

6 **"§ 14-256. Prison breach and escape from county or municipal confinement  
7 facilities or officers.**

8 If any person shall break any prison, jail or lockup maintained by any county or  
9 municipality in North Carolina, being lawfully confined therein, or shall escape from the  
10 lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he  
11 shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class ~~I~~H  
12 felony if:

13 (1) He has been convicted of a felony and has been committed to the  
14 facility pending transfer to the State prison system; or

15 (2) He is serving a sentence imposed upon conviction of a felony."

16 (u) G.S. 148-45 reads as rewritten:

17 **"§ 148-45. Escaping or attempting escape from State prison system; failure of  
18 conditionally and temporarily released prisoners and certain youthful  
19 offenders to return to custody of Department of Correction.**

20 (a) Any person in the custody of the Department of Correction in any of the  
21 classifications hereinafter set forth who shall escape from the State prison system, shall  
22 for the first such offense, except as provided in subsection (g) of this section, be guilty of  
23 a Class ~~I~~1 ~~felony~~ misdemeanor:

24 (1) A prisoner serving a sentence imposed upon conviction of a  
25 misdemeanor;

26 (2) A person who has been charged with a misdemeanor and who has been  
27 committed to the custody of the Department of Correction under the  
28 provisions of G.S. 162-39;

29 (3) Repealed by Session Laws 1985, c. 226, s. 4.

30 (4) A person who shall have been convicted of a misdemeanor and who  
31 shall have been committed to the Department of Correction for  
32 presentence diagnostic study under the provisions of G.S. 15A-1332(c).

33 (b) Any person in the custody of the Department of Correction, in any of the  
34 classifications hereinafter set forth, who shall escape from the State prison system, shall,  
35 except as provided in subsection (g) of this section, be punished as a Class ~~I~~H felon.

36 (1) A prisoner serving a sentence imposed upon conviction of a felony;

37 (2) A person who has been charged with a felony and who has been  
38 committed to the custody of the Department of Correction under the  
39 provisions of G.S. 162-39;

40 (3) Repealed by Session Laws 1985, c. 226, s. 5.

41 (4) A person who shall have been convicted of a felony and who shall have  
42 been committed to the Department of Correction for presentence  
43 diagnostic study under the provisions of G.S. 15A-1332(c); or

- 1           (5) Any person previously convicted of escaping or attempting to escape  
2           from the State prison system.
- 3           (c) Repealed by Session Laws 1979, c. 760, s. 5.
- 4           (d) Any person who aids or assists other persons to escape or attempt to escape  
5 from the State prison system shall be guilty of a Class 1 misdemeanor.
- 6           (e) Repealed by Session Laws 1983, c. 465, s. 5.
- 7           (f) Any person convicted of an escape or attempt to escape classified as a felony  
8 by this section shall be immediately classified and treated as a convicted felon even if  
9 such person has time remaining to be served in the State prison system on a sentence or  
10 sentences imposed upon conviction of a misdemeanor or misdemeanors.
- 11          (g)           (1) Any person convicted and in the custody of the North  
12 Carolina Department of Correction and ordered or otherwise assigned  
13 to work under the work-release program, G.S. 148-33.1, or any  
14 convicted person in the custody of the North Carolina Department of  
15 Correction and temporarily allowed to leave a place of confinement  
16 by the Secretary of Correction or his designee or other authority of  
17 law, who shall fail to return to the custody of the North Carolina  
18 Department of Correction, shall be guilty of the crime of escape and  
19 subject to the applicable provisions of this section and shall be  
20 deemed an escapee. For the purpose of this subsection, escape is  
21 defined to include, but is not restricted to, willful failure to return to  
22 an appointed place and at an appointed time as ordered.
- 23           (2) If a person, who would otherwise be guilty of a first violation of G.S.  
24 148-45(g)(1), voluntarily returns to his place of confinement within 24  
25 hours of the time at which he was ordered to return, such person shall  
26 not be charged with an escape as provided in this section but shall be  
27 subject to such administrative action as may be deemed appropriate for  
28 an escapee by the Department of Correction; said escapee shall not be  
29 allowed to be placed on work release for a four-month period or for the  
30 balance of his term if less than four months; provided, however, that if  
31 such person commits a subsequent violation of this section then such  
32 person shall be charged with that offense and, if convicted, punished  
33 under the provisions of this section."
- 34           (v) G.S. 90-95(e) reads as rewritten:
- 35           "(e) The prescribed punishment and degree of any offense under this Article shall  
36 be subject to the following conditions, but the punishment for an offense may be  
37 increased only by the maximum authorized under any one of the applicable conditions:
- 38           (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.
- 39           (3) If any person commits a Class 1 misdemeanor under this Article and if  
40 he has previously been convicted for one or more offenses under any  
41 law of North Carolina or any law of the United States or any other state,  
42 which offenses are punishable under any provision of this Article, he  
43 shall be punished as a Class I felon. The prior conviction used to raise

1 the current offense to a Class I felony shall not be used to calculate the  
2 prior record level;

3 (4) If any person commits a Class 2 misdemeanor, and if he has previously  
4 been convicted for one or more offenses under any law of North  
5 Carolina or any law of the United States or any other state, which  
6 offenses are punishable under any provision of this Article, he shall be  
7 guilty of a Class 1 misdemeanor. The prior conviction used to raise the  
8 current offense to a Class 1 misdemeanor shall not be used to calculate  
9 the prior conviction level;

10 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by  
11 selling or delivering a controlled substance to a person under 16 years of  
12 age or a pregnant female shall be punished as a Class D felon. Mistake  
13 of age is not a defense to a prosecution under this section. It shall not be  
14 a defense that the defendant did not know that the recipient was  
15 pregnant;

16 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and  
17 (e)(4), previous convictions for offenses shall be counted by the number  
18 of separate trials at which final convictions were obtained and not by the  
19 number of charges at a single trial;

20 (7) If any person commits an offense under this Article for which the  
21 prescribed punishment requires that any sentence of imprisonment be  
22 suspended, and if he has previously been convicted for one or more  
23 offenses under any law of North Carolina or any law of the United  
24 States or any other state, which offenses are punishable under any  
25 provision of this Article, he shall be guilty of a Class 2 misdemeanor;

26 (8) Any person 21 years of age or older who commits an offense under G.S.  
27 90-95(a)(1) on property used for an elementary or secondary school or  
28 within 300 feet of the boundary of real property used for an elementary  
29 or secondary school shall be punished as a Class E felon. For purposes  
30 of this subdivision, the transfer of less than five grams of marijuana for  
31 no remuneration shall not constitute a delivery in violation of G.S. 90-  
32 95(a)(1).

33 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal  
34 institution or local confinement facility shall be guilty of a Class ~~I~~H  
35 felony."

36 (w) G.S. 148-46.1 reads as rewritten:

37 **"§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in**  
38 **incapacity to perform assigned duties.**

39 Any person serving a sentence or sentences within the State prison system who,  
40 during the term of such imprisonment, willfully and intentionally inflicts upon himself  
41 any injury resulting in a permanent or temporary incapacity to perform work or duties  
42 assigned to him by the State Department of Correction, or any prisoner who aids or abets

1 any other prisoner in the commission of such offense, shall be punished as a Class ~~F~~H  
2 felon."

3 (x) G.S. 15A-1340.16(d) reads as rewritten:

4 "(d) Aggravating Factors. – The following are aggravating factors:

5 (1) The defendant induced others to participate in the commission of the  
6 offense or occupied a position of leadership or dominance of other  
7 participants.

8 (2) The defendant joined with more than one other person in committing  
9 the offense and was not charged with committing a conspiracy.

10 (3) The offense was committed for the purpose of avoiding or preventing  
11 a lawful arrest or effecting an escape from custody.

12 (4) The defendant was hired or paid to commit the offense.

13 (5) The offense was committed to disrupt or hinder the lawful exercise of  
14 any governmental function or the enforcement of laws.

15 (6) The offense was committed against or proximately caused serious  
16 injury to a present or former law enforcement officer, employee of the  
17 Department of Correction, jailer, fireman, emergency medical  
18 technician, ambulance attendant, justice or judge, clerk or assistant or  
19 deputy clerk of court, magistrate, prosecutor, juror, or witness against  
20 the defendant, while engaged in the performance of that person's  
21 official duties or because of the exercise of that person's official  
22 duties.

23 (7) The offense was especially heinous, atrocious, or cruel.

24 (8) The defendant knowingly created a great risk of death to more than  
25 one person by means of a weapon or device which would normally be  
26 hazardous to the lives of more than one person.

27 (9) The defendant held public office at the time of the offense and the  
28 offense related to the conduct of the office.

29 (10) The defendant was armed with or used a deadly weapon at the time of  
30 the crime.

31 (11) The victim was very young, or very old, or mentally or physically  
32 infirm, or handicapped.

33 (12) The defendant committed the offense while on pretrial release on  
34 another charge.

35 (13) The defendant involved a person under the age of 16 in the  
36 commission of the crime.

37 (14) The offense involved an attempted or actual taking of property of  
38 great monetary value or damage causing great monetary loss, or the  
39 offense involved an unusually large quantity of contraband.

40 (15) The defendant took advantage of a position of trust or confidence to  
41 commit the offense.

42 (16) The offense involved the sale or delivery of a controlled substance to  
43 a minor.

- 1 (17) The offense for which the defendant stands convicted was committed  
2 against a victim because of the victim's race, color, religion,  
3 nationality, or country of origin.
- 4 (18) The defendant does not support the defendant's family.
- 5 (18a) The defendant has previously been adjudicated delinquent for an  
6 offense that would be a Class A, B1, B2, C, D, or E felony if  
7 committed by an adult.
- 8 (19) The serious injury inflicted upon the victim is permanent and  
9 debilitating.
- 10 (20) Any other aggravating factor reasonably related to the purposes of  
11 sentencing.

12 Evidence necessary to prove an element of the offense shall not be used to prove any  
13 factor in aggravation, and the same item of evidence shall not be used to prove more than  
14 one factor in aggravation. Evidence necessary to establish that an enhanced sentence is  
15 required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

16 The judge shall not consider as an aggravating factor the fact that the defendant  
17 exercised the right to a jury trial."

18 (y) G.S. 14-291.2 reads as rewritten:

19 **"§ 14-291.2. Pyramid and chain schemes prohibited.**

20 (a) ~~Any No person who shall establish, promote, operate or participate in operate,~~  
21 participate in, or otherwise promote any pyramid distribution plan, program, device or  
22 scheme whereby a participant pays a valuable consideration for the opportunity or chance  
23 to receive a fee or compensation upon the introduction of other participants into the  
24 program, whether or not such opportunity or chance is received in conjunction with the  
25 purchase of ~~merchandise, shall be deemed to have participated merchandise.~~ A person  
26 who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A  
27 person who participates in or otherwise promotes a pyramid distribution plan is deemed  
28 to participate in a lottery and ~~shall be is~~ is guilty of a Class 2 misdemeanor.

29 (b) 'Pyramid distribution plan' means any program utilizing a pyramid or chain  
30 process by which a participant gives a valuable consideration for the opportunity to  
31 receive compensation or things of value in return for inducing other persons to become  
32 participants in the program; and

33 'Compensation' does not mean payment based on sales of goods or services to persons  
34 who are not participants in the scheme, and who are not purchasing in order to participate  
35 in the ~~scheme; and scheme.~~

36 '~~Promotes' shall mean inducing one or more other persons to become a participant.~~

37 (c) Any judge of the superior court shall have jurisdiction, upon petition by the  
38 Attorney General of North Carolina or district attorney of the superior court, to enjoin, as  
39 an unfair or deceptive trade practice, the continuation of the scheme described in  
40 subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees  
41 to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1;  
42 and the court may appoint a receiver to secure and distribute assets obtained by any  
43 defendant through participation in any such scheme.



1 (d) Any contract hereafter created for which a part of the consideration consisted  
2 of the opportunity or chance to participate in a program described in subsection (a) is  
3 hereby declared to be contrary to public policy and therefore void and unenforceable."

4 (z) The title of Article 22A of Chapter 14 of the General Statutes reads as  
5 rewritten:

6 **"ARTICLE 22A.**

7 **TRESPASSING UPON 'POSTED' PROPERTY TO HUNT,**  
8 **FISH OR TRAP. FISH, TRAP, OR REMOVE PINE NEEDLES/STRAW."**

9 (aa) G.S. 14-159.6 reads as rewritten:

10 **"§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a**  
11 **misdemeanor.**

12 (a) Any person who willfully goes on the land, waters, ponds, or a legally  
13 established waterfowl blind of another upon which notices, signs or ~~posters, described in~~  
14 G.S. 14-159.7, posters prohibiting hunting, fishing or trapping, trapping have been placed  
15 in accordance with the provisions of G.S. 14-159.7, or upon which 'posted' notices have  
16 been placed, placed in accordance with the provisions of G.S. 14-159.7, to hunt, fish or  
17 trap without the written consent of the owner or his agent shall be guilty of a Class 2  
18 misdemeanor. Provided, further, that no arrests under authority of this section-subsection  
19 shall be made without the consent of the owner or owners of said land, or their duly  
20 authorized agents in the following counties: Halifax and Warren.

21 (b) Any person who willfully goes on the land of another upon which notices,  
22 signs, or posters prohibiting raking or removing pine needles or pine straw have been  
23 placed in accordance with the provisions of G.S. 14-159.7, or upon which 'posted' notices  
24 have been placed in accordance with the provisions of G.S. 14-159.7, to rake or remove  
25 pine needles or pine straw without the written consent of the owner or his agent shall be  
26 guilty of a Class 2 misdemeanor."

27 (bb) Article 16 of Chapter 14 of the General Statutes is amended by adding a  
28 new section to read:

29 **"§ 14-79.1. Larceny of pine needles or pine straw.**

30 If any person shall take and carry away, or shall aid in taking or carrying away, any  
31 pine needles or pine straw being produced on the land of another person upon which land  
32 notices, signs, or posters prohibiting the raking or removal of pine needles or pine straw  
33 have been placed in accordance with the provisions of G.S. 14-159.7, or upon which  
34 posted notices have been placed in accordance with the provisions of G.S. 14-159.7, with  
35 the intent to steal the pine needles or pine straw, that person shall be guilty of a Class H  
36 felony."

37 (cc) Chapter 601 of the 1995 Session Laws is repealed.

38 (dd) G.S. 14-69.1 reads as rewritten:

39 **"§ 14-69.1. Making a false report concerning destructive device.**

40 (a) If any person shall, by any means of communication to any person or group of  
41 persons, make a report, knowing or having reason to know the same to be false, that there  
42 is located in any building, house or other structure whatsoever or any vehicle, aircraft,  
43 vessel or boat any device designed to destroy or damage the building, house or structure

1 or vehicle, aircraft, vessel or boat by explosion, blasting or burning, he shall be guilty of a  
2 Class 1 ~~misdemeanor.~~ H felony.

3 (b) ~~If any person shall, by any means of communication to any person or group of~~  
4 ~~persons, make a report, knowing or having reason to know the same to be false, that there~~  
5 ~~is located in any hospital facility as defined in G.S. 131E-6, which includes a health clinic~~  
6 ~~facility, any device designed to destroy or damage the hospital or health clinic facility by~~  
7 ~~explosion, blasting, or burning, he shall, upon a first conviction, be guilty of a Class 1~~  
8 ~~misdemeanor, punishable by a minimum of 100 hours of mandatory community service.~~  
9 ~~Upon a second or subsequent conviction under this subsection, he shall be guilty of a~~  
10 ~~Class I felony."~~

11 (ee) G.S. 14-69.2 reads as rewritten:

12 **"§ 14-69.2. Perpetrating hoax by use of false bomb or other device.**

13 (a) If any person, with intent to perpetrate a hoax, shall secrete, place or display  
14 any device, machine, instrument or artifact, so as to cause any person reasonably to  
15 believe the same to be a bomb or other device capable of causing injury to persons or  
16 property, he shall be guilty of a Class 1 ~~misdemeanor.~~ H felony.

17 (b) ~~A violation of subsection (a) of this section that occurs in a hospital facility as~~  
18 ~~defined in G.S. 131E-6 is, upon a first conviction, a Class 1 misdemeanor punishable by a~~  
19 ~~minimum of 100 hours of mandatory community service. A second or subsequent~~  
20 ~~conviction under subsection (a) of this section is a Class I felony."~~

21 (ff) G.S. 15A-1340.16(d) reads as rewritten:

22 "(d) Aggravating Factors. – The following are aggravating factors:

23 (1) The defendant induced others to participate in the commission of the  
24 offense or occupied a position of leadership or dominance of other  
25 participants.

26 (2) The defendant joined with more than one other person in committing the  
27 offense and was not charged with committing a conspiracy.

28 (2a) The offense was committed for the benefit of, or at the direction of, any  
29 criminal street gang, with the specific intent to promote, further, or  
30 assist in any criminal conduct by gang members, and the defendant was  
31 not charged with committing a conspiracy. A 'criminal street gang'  
32 means any ongoing organization, association, or group of three or more  
33 persons, whether formal or informal, having as one of its primary  
34 activities the commission of felony or violent misdemeanor offenses, or  
35 delinquent acts that would be felonies or violent misdemeanors if  
36 committed by an adult, and having a common name or common  
37 identifying sign, colors, or symbols.

38 (3) The offense was committed for the purpose of avoiding or preventing a  
39 lawful arrest or effecting an escape from custody.

40 (4) The defendant was hired or paid to commit the offense.

41 (5) The offense was committed to disrupt or hinder the lawful exercise of  
42 any governmental function or the enforcement of laws.

- 1 (6) The offense was committed against a present or former law enforcement  
2 officer, employee of the Department of Correction, jailer, fireman,  
3 emergency medical technician, ambulance attendant, justice or judge,  
4 clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror,  
5 or witness against the defendant, while engaged in the performance of  
6 that person's official duties or because of the exercise of that person's  
7 official duties.
- 8 (7) The offense was especially heinous, atrocious, or cruel.
- 9 (8) The defendant knowingly created a great risk of death to more than one  
10 person by means of a weapon or device which would normally be  
11 hazardous to the lives of more than one person.
- 12 (9) The defendant held public office at the time of the offense and the  
13 offense related to the conduct of the office.
- 14 (10) The defendant was armed with or used a deadly weapon at the time of  
15 the crime.
- 16 (11) The victim was very young, or very old, or mentally or physically  
17 infirm, or handicapped.
- 18 (12) The defendant committed the offense while on pretrial release on  
19 another charge.
- 20 (13) The defendant involved a person under the age of 16 in the commission  
21 of the crime.
- 22 (14) The offense involved an attempted or actual taking of property of great  
23 monetary value or damage causing great monetary loss, or the offense  
24 involved an unusually large quantity of contraband.
- 25 (15) The defendant took advantage of a position of trust or confidence to  
26 commit the offense.
- 27 (16) The offense involved the sale or delivery of a controlled substance to a  
28 minor.
- 29 (17) The offense for which the defendant stands convicted was committed  
30 against a victim because of the victim's race, color, religion, nationality,  
31 or country of origin.
- 32 (18) The defendant does not support the defendant's family.
- 33 (18a) The defendant has previously been adjudicated delinquent for an offense  
34 that would be a Class A, B1, B2, C, D, or E felony if committed by an  
35 adult.
- 36 (19) The serious injury inflicted upon the victim is permanent and  
37 debilitating.
- 38 (20) Any other aggravating factor reasonably related to the purposes of  
39 sentencing.

40 Evidence necessary to prove an element of the offense shall not be used to prove any  
41 factor in aggravation, and the same item of evidence shall not be used to prove more than  
42 one factor in aggravation. Evidence necessary to establish that an enhanced sentence is  
43 required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

1 The judge shall not consider as an aggravating factor the fact that the defendant  
2 exercised the right to a jury trial."

3 (gg) G.S. 14-72.1 is amended by adding a new subsection to read:

4 "(d1) Notwithstanding subsection (e) of this section, any person who violates  
5 subsection (a) of this section by using a lead-lined or aluminum-lined bag, a lead-lined or  
6 aluminum-lined article of clothing, or a similar device to prevent the activation of any  
7 antishoplifting or inventory control device is guilty of a Class H felony."

8 (hh) This section becomes effective December 1, 1997, and applies to offenses  
9 committed on or after that date.

## 11 PART XVII. DEPARTMENT OF JUSTICE

12  
13 Requested by: Senator Gulley

### 14 DEPARTMENT OF JUSTICE SALARY FUNDS

15 Section 17. Of the funds appropriated in this act to the Department of Justice,  
16 the sum of ninety-three thousand four hundred fifty-three dollars (\$93,453) for the 1997-  
17 98 fiscal year and the sum of ninety-three thousand four hundred fifty-three dollars  
18 (\$93,453) for the 1998-99 fiscal year may be used for one-time salary adjustments for  
19 attorneys who are eligible for the adjustments based upon outstanding job performance  
20 for the preceding year.

21  
22 Requested by: Senator Gulley

### 23 SBI FUNDS/SPENDING PRIORITIES

24 Section 17.1. Of the funds appropriated in this act to the Department of  
25 Justice, State Bureau of Investigation, for the 1997-99 biennium for overtime payments,  
26 the first priority for use of the funds by the Department shall be:

- 27 (1) To make overtime payments to SBI agents in the Field Investigations  
28 Division; and
- 29 (2) To make overtime payments to supervisory personnel receiving  
30 overtime payments as of June 30, 1997, up to a maximum of five  
31 thousand two hundred dollars (\$5,200) annually per individual.

32  
33 Requested by: Senator Gulley

### 34 SBI USE OF COURT-ORDERED REIMBURSEMENT FUNDS

35 Section 17.2. The State Bureau of Investigation (SBI) may use funds available  
36 from court-ordered reimbursement in undercover drug operations.

37  
38 Requested by: Senator Gulley

### 39 PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING 40 BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

41 Section 17.3. The Private Protective Services and Alarm Systems Licensing  
42 Boards shall pay the appropriate State agency for the use of physical facilities and  
43 services provided to those boards by the State.

1  
2 Requested by: Senator Gulley

3 **LIMITS ON COMPUTER SYSTEM UPGRADE**

4 Section 17.4. Any proposed increase in mainframe computer capacity or  
5 system upgrade for the Judicial Department, the Department of Correction, the  
6 Department of Justice, or the Department of Crime Control and Public Safety, to be  
7 funded from the Continuation Budget, shall be reported to the Joint Legislative  
8 Commission on Governmental Operations, to the Senate and House of Representatives  
9 Chairs of the Appropriations Committees, and to the Senate and House Chairs of the  
10 Appropriations Subcommittees on Justice and Public Safety before the department enters  
11 into any contractual agreement. This report is to be made jointly by the Information  
12 Resource Management Commission, the Office of State Budget and Management, and  
13 the requesting department.

14  
15 Requested by: Senator Gulley

16 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

17 Section 17.5. Client departments, agencies, and boards shall reimburse the  
18 Department of Justice for reasonable court fees, attorney travel and subsistence costs, and  
19 other costs directly related to litigation in which the Department of Justice is representing  
20 the department, agency, or board.

21  
22 Requested by: Senator Gulley

23 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**  
24 **REPRESENTATION**

25 Section 17.6. The Department of Justice shall be reimbursed by the Board of  
26 Governors of The University of North Carolina for two Attorney III positions to provide  
27 legal representation to The University of North Carolina System.

28  
29 Requested by: Senator Gulley

30 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE**  
31 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

32 Section 17.7. (a) Assets transferred to the Department of Justice during the 1997-99  
33 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department  
34 and shall result in an increase of law enforcement resources for the Department. Assets  
35 transferred to the Department of Crime Control and Public Safety during the 1997-99  
36 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department  
37 and shall result in an increase of law enforcement resources for the Department. The  
38 Departments of Justice and Crime Control and Public Safety shall report to the Joint  
39 Legislative Commission on Governmental Operations upon receipt of the assets and,  
40 before using the assets, shall report on the intended use of the assets and the departmental  
41 priorities on which the assets may be expended.

42 The General Assembly finds that the use of assets transferred pursuant to 19  
43 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real

1 property, repair of buildings where the repair includes structural change, and construction  
2 of or additions to buildings may result in additional expenses for the State in future fiscal  
3 periods. Therefore, the Department of Justice and the Department of Crime Control and  
4 Public Safety are prohibited from using these assets for such purposes without the prior  
5 approval of the General Assembly, except during the 1997-98 fiscal year, the Department  
6 of Justice may:

- 7 (1) Use an amount not to exceed the sum of twenty-five thousand dollars  
8 (\$25,000) of the funds to extend the lease of space in the Town of  
9 Salemburg for SBI training; and  
10 (2) Use an amount not to exceed fifty thousand dollars (\$50,000) of the  
11 funds to lease space for its technical operations unit, storage of its  
12 equipment and vehicles, and command post vehicle.  
13 (b) Nothing in this section prohibits North Carolina law enforcement agencies  
14 from receiving funds from the United States Department of Justice pursuant to 19 U.S.C.  
15 § 1616a.

16  
17 Requested by: Senator Gulley

#### 18 **DEPARTMENT OF JUSTICE RECORD CHECKS FUNDS AND REPORTS**

19 Section 17.8. (a) The Department of Justice may use, for each year of the  
20 1997-99 biennium, the sum of up to two hundred ten thousand five hundred sixty-three  
21 dollars (\$210,563) to add up to five positions in the State Bureau of Investigation to  
22 facilitate record checks for concealed weapons permits. The Office of State Budget and  
23 Management may adjust the allotment of appropriations to the Department of Justice  
24 until receipts are realized. The Department of Justice may fund one and one-half  
25 positions per 10,000 record checks for concealed weapons permits. If the total number of  
26 annual criminal record checks performed by the State Bureau of Investigation falls below  
27 the level of 5,000 checks, the number of positions shall be reduced to one.

28 (b) The Department of Justice shall report by January 15 each year to the Joint  
29 Legislative Commission on Governmental Operations, the Chairs of the Senate and  
30 House Appropriations Committees, and the Chairs of the Senate and House  
31 Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and  
32 number of criminal record checks performed in connection with applications for  
33 concealed weapons permits. The report by the Department of Justice shall also include  
34 information on the number of applications received and approved for firearms safety  
35 courses.

36  
37 Requested by: Senator Gulley

#### 38 **SALARY EQUITY FOR SBI LAW ENFORCEMENT**

39 Section 17.9. Of the funds appropriated in this act to the Department of Justice  
40 for the State Bureau of Investigation, the sum of eight hundred eight thousand six  
41 hundred forty-five dollars (\$808,645) for the 1997-98 fiscal year and the sum of eight  
42 hundred eight thousand six hundred forty-five dollars (\$808,645) for the 1998-99 fiscal  
43 year shall be used to adjust the salaries of law enforcement positions in the State Bureau

1 of Investigation. Within each salary grade, each position shall receive at least a three  
2 percent (3%) increase and no more than a ten percent (10%) increase in salary. Salary  
3 increases shall be based upon criteria determined by the Department and established for  
4 the purpose of achieving equity among personnel within each position classification or  
5 level.

6  
7 Requested by: Senator Gulley

8 **EXTEND EXPIRATION DATE OF THE PROVISION AUTHORIZING**  
9 **ADDITIONAL FICTITIOUS LICENSES AND REGISTRATION PLATES ON**  
10 **PUBLICLY OWNED MOTOR VEHICLES**

11 Section 17.10. (a) Subsection (c) of Section 23 of Chapter 18 of the Session  
12 Laws of the 1996 Second Extra Session reads as rewritten:

13 "(c) Subsection (a) of this section expires ~~June 30, 1997.~~ June 30, 1998."

14 (b) This section becomes effective June 29, 1997.

15  
16 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

17  
18 Requested by: Senator Gulley

19 **LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER**  
20 **GRANTS**

21 Section 18. (a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act  
22 of 1968 provides that the State application for Drug Law Enforcement Grants is subject  
23 to review by the State legislature or its designated body. Therefore, the Governor's Crime  
24 Commission of the Department of Crime Control and Public Safety shall report on the  
25 State application for grants under the State and Local Law Enforcement Assistance Act  
26 of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted  
27 by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House  
28 Appropriations Subcommittees on Justice and Public Safety when the General Assembly  
29 is in session. When the General Assembly is not in session, the Governor's Crime  
30 Commission shall report on the State application to the Joint Legislative Commission on  
31 Governmental Operations.

32 (b) Unless a State statute provides a different forum for review, when a federal law  
33 or regulation provides that an individual State application for a grant shall be reviewed by  
34 the State legislature or its designated body and at the time of the review the General  
35 Assembly is not in session, that application shall be reviewed by the Joint Legislative  
36 Commission on Governmental Operations.

37  
38 Requested by: Senator Gulley

39 **VICTIMS ASSISTANCE NETWORK FUNDS**

40 Section 18.1. Of the funds appropriated in this act to the Department of Crime  
41 Control and Public Safety, the sum of one hundred fifty thousand dollars (\$150,000) for  
42 the 1997-98 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for  
43 the 1998-99 fiscal year shall be used to support the Victims Assistance Network. These

1 funds shall be used by the Victims Assistance Network to perform the following  
2 functions under the direction of and as required by the Department of Crime Control and  
3 Public Safety:

- 4 (1) Conduct surveys and gather data on crime victims and their needs;
- 5 (2) Act as a clearinghouse for crime victims services;
- 6 (3) Provide an automated crime victims bulletin board for subscribers;
- 7 (4) Coordinate and support the activities of other crime victims advocacy  
8 groups;
- 9 (5) Identify training needs of crime victims services providers and criminal  
10 justice personnel and coordinate training efforts for those persons; and
- 11 (6) Provide other services as identified by the Governor's Crime  
12 Commission or the Department of Crime Control and Public Safety.

13  
14 Requested by: Senator Gulley

#### 15 **REPORT ON COMMUNITY SERVICE WORKERS**

16 Section 18.2. The Department of Crime Control and Public Safety shall report  
17 to the Joint Legislative Commission on Governmental Operations and the Fiscal  
18 Research Division by March 1 and September 1 of each fiscal year of the 1997-99  
19 biennium on the number of community service workers who were available during each  
20 month of the time period preceding that report to perform repairs and maintenance of the  
21 parks and when and where they were available.

22  
23 Requested by: Senator Gulley

#### 24 **REPORT ON CRIME VICTIMS COMPENSATION FUND**

25 Section 18.3. The Department of Crime Control and Public Safety shall report  
26 to the Chairs of the Senate and House Appropriations Committees, the Chairs of the  
27 Senate and House Appropriations Subcommittees on Justice and Public Safety, and the  
28 Fiscal Research Division of the General Assembly by December 31 each year on the  
29 North Carolina Crime Victims Compensation Fund. The report shall include a statement  
30 regarding:

- 31 (1) The administrative expenses of the Fund for the prior fiscal year and the  
32 current fiscal year on the date of the report;
- 33 (2) The current unencumbered balance of the Fund;
- 34 (3) The amount of funds carried over from the prior fiscal year;
- 35 (4) The amount of funds received in the prior fiscal year from the  
36 Department of Correction and from the compensation fund established  
37 pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.;
- 38 (5) The amount of funds expected to be received in the current fiscal year,  
39 as well as the amount actually received in the current fiscal year on the  
40 date of the report, from the Department of Correction and from the  
41 compensation fund established pursuant to the Victims Crime Act of  
42 1984, 42 U.S.C. § 10601, et seq.; and



- 1 (6) The total amount of funds paid to victims in the prior fiscal year and in  
2 the current fiscal year on the date of the report.  
3

#### 4 **PART XIX. GENERAL ASSEMBLY**

5  
6 Requested by: Senators Plyler, Perdue, Odom

#### 7 **ANALYSIS OF STATE BUDGET DURING THE INTERIM**

8 Section 19. (a) The President Pro Tempore of the Senate shall authorize the  
9 standing Appropriations Committees and standing Appropriations Subcommittees of the  
10 Senate and the Speaker of the House of Representatives shall authorize the standing  
11 Appropriations Committees and standing Appropriations Subcommittees of the House of  
12 Representatives to meet separately or jointly during the interim between the Regular 1997  
13 and 1998 Sessions of the General Assembly to review matters related to the State budget,  
14 the organization of State government, and any other matter as they deem appropriate.  
15 The review shall include, but not be limited to, an analysis of the budget of each agency  
16 to determine:

- 17 (1) The cost savings that could be realized from improvements in  
18 administrative structure, practices, and procedures in State agencies;  
19 (2) Ways to increase efficiency in budgeting and use of resources; and  
20 (3) Instances in which functions of agencies are duplicative, overlapping,  
21 obsolete, incomplete in scope or coverage, or fail to accomplish  
22 legislative objectives, and should be abolished, transferred, or modified  
23 to accomplish cost savings.

24 (b) The President Pro Tempore of the Senate shall appoint an oversight  
25 committee comprised of the Senate Appropriations Committee Chairs and one member of  
26 each Senate Appropriations Subcommittee and the Speaker of the House of  
27 Representatives shall appoint an oversight committee comprised of the House  
28 Appropriations Committee Chairs and one member of each House Appropriations  
29 Subcommittee to meet separately or jointly to oversee the work of the Appropriations  
30 Committees and Subcommittees during the interim.  
31

32 Requested by: Senator Perdue

#### 33 **HEALTH CARE OVERSIGHT COMMITTEE**

34 Section 19.1. (a) Of the funds appropriated in this act to the General Assembly,  
35 the sum of fifty thousand dollars (\$50,000) for the 1997-98 fiscal year and the sum of  
36 fifty thousand dollars (\$50,000) for the 1998-99 fiscal year shall be allocated by the  
37 Legislative Services Commission for the Joint Legislative Health Care Oversight  
38 Committee established under subsection (b) of this section.

39 (b) Chapter 120 of the General Statutes is amended by adding the following new  
40 Article to read:

#### 41 **"ARTICLE 12K.**

#### 42 **"JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE.**

1 **"§ 120-70.96. Creation and membership of Joint Legislative Health Care Oversight**  
2 **Committee.**

3 There is established the Joint Legislative Health Care Oversight Committee. The  
4 Committee consists of 14 members as follows:

- 5 (1) Seven members of the Senate appointed by the President Pro Tempore  
6 of the Senate, at least three of whom are members of the minority party;  
7 and  
8 (2) Seven members of the House of Representatives appointed by the  
9 Speaker of the House of Representatives, at least three of whom are  
10 members of the minority party.

11 Terms on the Committee are for two years and begin on the convening of the General  
12 Assembly in each odd-numbered year, except the terms of the initial members, which  
13 begin on appointment. Members may complete a term of service on the Committee even  
14 if they do not seek reelection or are not reelected to the General Assembly, but  
15 resignation or removal from service in the General Assembly constitutes resignation or  
16 removal from service on the Committee.

17 A member continues to serve until the member's successor is appointed. A vacancy  
18 shall be filled within 30 days by the officer who made the original appointment.

19 **"§ 120-70.97. Purpose and powers of Committee.**

20 (a) The Joint Legislative Health Care Oversight Committee shall review, on a  
21 continuing basis, the provision of health care and health care coverage to the citizens of  
22 this State, in order to make ongoing recommendations to the General Assembly on ways  
23 to improve health care for North Carolinians. To this end, the Committee shall study the  
24 delivery, availability, and cost of health care in North Carolina. The Committee may also  
25 study other matters related to health care and health care coverage in this State.

26 (b) The Committee may make interim reports to the General Assembly on matters  
27 for which it may report to a regular session of the General Assembly. A report to the  
28 General Assembly may contain any legislation needed to implement a recommendation  
29 of the Committee.

30 **"§ 120-70.98. Organization of Committee.**

31 (a) The President Pro Tempore of the Senate and the Speaker of the House of  
32 Representatives shall each designate a cochair of the Joint Legislative Health Care  
33 Oversight Committee. The Committee shall meet at least once a quarter and may meet at  
34 other times upon the joint call of the cochairs.

35 (b) A quorum of the Committee is eight members. No action may be taken except  
36 by a majority vote at a meeting at which a quorum is present. While in the discharge of  
37 its official duties, the Committee has the powers of a joint committee under G.S. 120-19  
38 and G.S. 120-19.1 through G.S. 120-19.4.

39 (c) Members of the Committee receive subsistence and travel expenses as  
40 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees  
41 in accordance with G.S. 120-32.02. The Legislative Services Commission, through the  
42 Legislative Services Officer, shall assign professional staff to assist the Committee in its  
43 work. Upon the direction of the Legislative Services Commission, the Supervisors of

1 Clerks of the Senate and of the House of Representatives shall assign clerical staff to the  
2 Committee. The expenses for clerical employees shall be borne by the Committee."

#### 4 **PART XX. OFFICE OF THE GOVERNOR**

6 Requested by: Senator Martin of Pitt

#### 7 **HOME PROGRAM MATCHING FUNDS**

8 Section 20. (a) Funds appropriated in this act to the Housing Finance Agency for the  
9 federal HOME Program shall be used to match federal funds appropriated for the HOME  
10 Program. In allocating State funds appropriated to match federal HOME Program funds,  
11 the Agency shall give priority to HOME Program projects, as follows:

- 12 (1) First priority to projects that are located in counties designated as  
13 severely distressed counties under G.S. 105-130.40(c) or G.S. 105-  
14 151.17(c); and
- 15 (2) Second priority to projects that benefit persons and families whose  
16 incomes are fifty percent (50%) or less of the median family income for  
17 the local area, with adjustments for family size, according to the latest  
18 figures available from the U.S. Department of Housing and Urban  
19 Development.

20 The Housing Finance Agency shall report to the Joint Legislative Commission  
21 on Governmental Operations by April 1 of each year concerning the status of the HOME  
22 Program and shall include in the report information on priorities met, types of activities  
23 funded, and types of activities not funded.

24 (b) If the United States Congress changes the HOME Program such that matching  
25 funds are not required for a given program year, then the Agency shall not spend the  
26 matching funds appropriated under this act for that program year.

27 (c) Funds appropriated in this act to match federal HOME Program funds shall not  
28 revert to the General Fund on June 30, 1998, or on June 30, 1999.

30 Requested by: Senators Odom, Perdue, Plyler, Conder, Jordan

#### 31 **FIRE PROTECTION GRANT FUNDS**

32 Section 20.1. (a) Chapter 58 of the General Statutes is amended by adding a new  
33 Article to read:

#### 34 **"ARTICLE 85A.**

#### 35 **"STATE FIRE PROTECTION GRANT FUND.**

#### 36 **"§ 58-85A-1. Creation of Fund; allocation to local fire districts and political** 37 **subdivisions of the State.**

38 (a) There is created in the Office of State Budget and Management the State Fire  
39 Protection Grant Fund. The purpose of the Fund is to compensate local fire districts and  
40 political subdivisions of the State for providing local fire protection to State-owned  
41 buildings and their contents.

1 (b) The Office of State Budget and Management shall develop and implement an  
2 equitable and uniform statewide method for distributing any funds to the State's local fire  
3 districts and political subdivisions.

4 Upon the request of the Director of the Budget, the Department of Insurance shall  
5 provide the Office of State Budget and Management all information necessary to develop  
6 and implement the formula.

7 (c) It is the intent of the General Assembly to appropriate annually to the State  
8 Fire Protection Grant Fund at least three million eighty thousand dollars (\$3,080,000)  
9 from the General Fund, one hundred fifty thousand dollars (\$150,000) from the Highway  
10 Fund, and nine hundred seventy thousand dollars (\$970,000) from University of North  
11 Carolina receipts to the State Fire Protection Fund. Funds received from the General  
12 Fund shall be allocated only for providing local fire protection for State-owned property  
13 supported by the General Fund; funds received from the Highway Fund shall be allocated  
14 only for providing local fire protection for State-owned property supported by the  
15 Highway Fund; and funds received from University of North Carolina receipts shall be  
16 allocated only for providing local fire protection for State-owned property supported by  
17 University of North Carolina receipts."

18 (b) G.S. 143-3.7 is repealed.

19 (c) Of the funds appropriated from the General Fund to the Office of State  
20 Budget and Management, the sum of three million eighty thousand dollars (\$3,080,000)  
21 for the 1997-98 fiscal year and the sum of three million eighty thousand dollars  
22 (\$3,080,000) for the 1998-99 fiscal year shall be used for the State Fire Protection Grant  
23 Fund.

24 (d) Of the funds appropriated from the Highway Fund to the Office of State  
25 Budget and Management, the sum of one hundred fifty thousand dollars (\$150,000) for  
26 the 1997-98 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for  
27 the 1998-99 fiscal year shall be used for the State Fire Protection Grant Fund.

28 (e) Of the funds available to The University of North Carolina from federal  
29 receipts, the sum of nine hundred seventy thousand dollars (\$970,000) for the 1997-98  
30 fiscal year and the sum of nine hundred seventy thousand dollars (\$970,000) for the  
31 1998-99 fiscal year shall be transferred to the State Fire Protection Grant Fund for the  
32 State Fire Protection Grant Fund.

## 33 34 **PART XXI. DEPARTMENT OF SECRETARY OF STATE**

35  
36 Requested by: Senator Warren

### 37 **INFORMATION RESOURCES MANAGEMENT COMMISSION**

38 Section 21. (a) Effective July 1, 1997, G.S. 143B-426.21(a) reads as rewritten:

39 "(a) Creation; Membership. – The Information Resource Management Commission  
40 is created in the Office of the State Controller. The Commission consists of the following  
41 members:

42 (1) Four members of the Council of State, appointed by the Governor.

43 (1a) The Secretary of State.

- 1           (2)    The Secretary of Administration.
- 2           (3)    The State Budget Officer.
- 3           (4)    Two members of the Governor's cabinet, appointed by the Governor.
- 4           (5)    One citizen of the State of North Carolina with a background in and
- 5           familiarity with information systems or telecommunications, appointed
- 6           by the General Assembly upon the recommendation of the President Pro
- 7           Tempore of the Senate in accordance with G.S. 120-121.
- 8           (6)    One citizen of the State of North Carolina with a background in and
- 9           familiarity with information systems or telecommunications, appointed
- 10          by the General Assembly upon the recommendation of the Speaker of
- 11          the House of Representatives in accordance with G.S. 120-121.
- 12          (7)    The Chair of the Governor's Committee on Data Processing and
- 13          Information Systems.
- 14          (8)    The Chair of the State Information Processing Services Advisory Board.
- 15          (9)    The Chair of the Criminal Justice Information Network Governing
- 16          Board.

17          Members of the Commission shall not be employed by or serve on the board of  
18          directors or other corporate governing body of any information systems, computer  
19          hardware, computer software, or telecommunications vendor of goods and services to the  
20          State of North Carolina.

21          The two initial cabinet members appointed by the Governor and the two initial citizen  
22          members appointed by the General Assembly shall each serve a term beginning  
23          September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be  
24          appointed for four-year terms, commencing July 1. Members of the Governor's cabinet  
25          shall be disqualified from completing a term of service of the Commission if they are no  
26          longer cabinet members.

27          The appointees by the Governor from the Council of State shall each serve a term  
28          beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their  
29          successors shall be appointed for four-year terms, commencing July 1. Members of the  
30          Council of State shall be disqualified from completing a term of service on the  
31          Commission if they are no longer members of the Council of State.

32          Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-  
33          122.

34          The Commission chair shall be elected in the first meeting of each calendar year from  
35          among the appointees of the Governor from the Council of State and shall serve a term of  
36          one year. The Secretary of Administration shall be secretary to the Commission.

37          No member of the Information Resource Management Commission shall vote on an  
38          action affecting solely his or her own State agency."

39          (b)    This section expires June 30, 2001.

40

## 41   **PART XXII. DEPARTMENT OF STATE AUDITOR**

42

43   Requested by: Senators Plyler, Perdue, Odom

**ADVICE OF GOVERNMENTAL OPERATIONS ON PRIORITIZING REQUESTS FOR ASSISTANCE**

Section 22. G.S. 147-64.5(b) reads as rewritten:

"(b) Requests for Auditor Assistance. – Committees of the General Assembly, the Governor, and other State officials may make written requests that the Auditor undertake, to the extent deemed practicable and within the resources provided, a specific audit or investigation; provide technical assistance and advice; and provide recommendations on management systems, finance, accounting, auditing, and other areas of management interest. The Auditor may request the advice of the Joint Legislative Commission on Governmental Operations in prioritizing these requests and in determining whether the requests are practicable and can be undertaken within the resources provided."

Requested by: Senators Plyler, Perdue, Odom

**PERFORMANCE AUDIT OF SIPS**

Section 22.1. The State Auditor shall conduct a performance audit of State Information Processing Services (SIPS). In conducting the audit, the State Auditor shall consider the growth in the number of SIPS employees, the distribution of work within SIPS, increases in employees' salaries, use of SIPS receipts, and all other indicators of cost of services in relation to service delivery. The State Auditor shall report the results of this audit to the Joint Legislative Commission on Governmental Operations prior to April 15, 1998.

**PART XXIII. DEPARTMENT OF INSURANCE**

Requested by: Senator Warren

**CONSTRUCTION CODE RECEIPTS**

Section 23. Departmental receipts realized by the Department of Insurance in excess of amounts approved for expenditure by the General Assembly, as adjusted by the Office of State Budget and Management to reflect the distribution of statewide reserves, shall revert to the General Fund at the end of each fiscal year. This section shall not apply to receipts realized by the Department from the sale of copies of the State construction code if the receipts are used for the purchase of copies of the code for sale to the public, except that unspent construction code receipts shall revert to the General Fund at the end of each fiscal year.

Requested by: Senator Warren

**EXPAND USE OF INSURANCE REGULATORY FUND**

Section 23.1. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any

1 interest or other income derived from the Fund shall be credited to the Fund. Moneys in  
2 the Fund may be spent only pursuant to appropriation by the General Assembly and in  
3 accordance with the line item budget enacted by the General Assembly. The Fund is  
4 subject to the provisions of the Executive Budget Act, except that no unexpended surplus  
5 of the Fund shall revert to the General Fund. All money credited to the Fund shall be used  
6 to reimburse the General Fund for the following:

7 (1) Money appropriated to the Department of Insurance to pay its expenses  
8 incurred in regulating the insurance industry and other industries in this  
9 State.

10 (2) Money appropriated to State agencies to pay the expenses incurred in  
11 regulating the insurance industry, in certifying statewide data processors  
12 under Article 11A of Chapter 131E of the General Statutes, and in  
13 purchasing reports of patient data from statewide data processors  
14 certified under that Article.

15 (3) Money appropriated to the Department of Revenue to pay the expenses  
16 incurred in collecting and administering the taxes on insurance  
17 companies levied in Article 8B of Chapter 105 of the General Statutes."  
18

#### 19 **PART XXIV. DEPARTMENT OF ADMINISTRATION**

20  
21 Requested by: Senators Perdue, Plyler, Odom

#### 22 **COMBINE PROGRAMS TO HELP WOMEN AND CHILDREN**

23 Section 24. The Office of State Budget and Management shall study the  
24 feasibility of consolidating the budgets and services and the administration of federal and  
25 State grants for domestic violence programs and rape crisis programs in the State,  
26 including those programs currently administered by the Council for Women, Department  
27 of Administration, the Governor's Crime Commission, Department of Crime Control and  
28 Public Safety, and the Division of Social Services, Department of Human Resources.  
29 This study shall include an analysis of the feasibility of combining budgets and services  
30 of the NC Council for Women (Fund 1731), the Domestic Violence Program (Fund  
31 1781), the Domestic Violence Center (Fund 1782), the Displaced Homemakers Program  
32 (Fund 1732), and the Rape Crisis Program (Fund 1734) and an analysis of ways to  
33 promote more efficient and effective coordination of resources and services at the State  
34 and local levels. The Office of State Budget and Management shall report the findings  
35 and recommendations of the study to the House and Senate Appropriations  
36 Subcommittees on General Government and the Fiscal Research Division by March 31,  
37 1998.  
38

39 Requested by: Senator Warren

#### 40 **PROCUREMENT CARD PILOT PROGRAM**

41 Section 24.1. (a) Except as provided by this section, no State agency, community  
42 college, constituent institution of The University of North Carolina, or local school

1 administrative unit shall use procurement cards for the purchase of equipment or supplies  
2 prior to July 1, 1998.

3 (b) The Secretary of Administration shall designate not more than 15  
4 governmental entities to participate in a pilot program on the purchase of supplies and  
5 equipment by procurement card. Those designated shall represent a cross-section of  
6 governmental entities and shall include at least one State agency, one community college,  
7 two constituent institutions of The University of North Carolina, and one local school  
8 administrative unit.

9 (c) The Division of Purchase and Contract and the State Controller shall report  
10 to the Joint Legislative Commission on Governmental Operations on March 1, 1998, on  
11 this pilot program. The report shall include estimates from the pilot program of how  
12 many purchasing and accounts payable personnel hours could be saved or redirected or  
13 both as a result of the procurement card, and the impact of the procurement card on  
14 accounting and budgeting records and on purchasing history records. The report shall  
15 also include a discussion of the effect of the procurement card on the State's ability to  
16 track both out-of-state sales taxes and North Carolina State and local sales tax payments  
17 by county. Finally, the report shall include a discussion of any other costs and benefits of  
18 the procurement card.

19 (d) This section does not affect contracts for procurement cards entered into prior  
20 to March 31, 1997.

21  
22 Requested by: Senator Warren  
23 **STATE HEALTH PLAN PURCHASING ALLIANCE BOARD OPERATING**  
24 **FUNDS REVERT**

25 Section 24.2. (a) G.S. 143-635(c) reads as rewritten:

26 "(c) Moneys appropriated by the General Assembly ~~shall be deposited in the Fund~~  
27 ~~and shall become part of the continuation budget of the Department of Administration.~~  
28 for operations of the State Health Plan Purchasing Alliance Board shall not be part of the  
29 State Health Plan Purchasing Alliance Fund."

30 (b) The sum of six hundred forty-eight thousand seven hundred eighteen  
31 dollars (\$648,718) for the 1996-97 fiscal year shall be transferred from the State Health  
32 Plan Purchasing Alliance Fund to the General Fund.

33 (c) All monies for operations of the State Health Plan Purchasing Alliance  
34 Board unexpended at the end of the 1996-97 fiscal year shall revert to the General Fund.

35 (d) This section becomes effective June 30, 1997.

36  
37 Requested by: Senator Warren  
38 **GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES**

39 Section 24.3. The Department of Human Resources shall continue to provide  
40 the current office space for the four regional offices of the Governor's Advocacy Council  
41 for Persons with Disabilities or office space that is comparable to that now used by the  
42 Council.

43



1 Requested by: Senator Warren

2 **FEES FOR USE OF STATE-OWNED OFFICE SPACE**

3 Section 24.4. G.S. 143-342.1 reads as rewritten:

4 **"§ 143-342.1. State-owned office space; fees for use by self-supporting agencies.**

5 The Department shall determine equitable fees for the use of State owned and  
6 operated office space, and it shall assess the Department of State Treasurer, the  
7 Department of Insurance, and all self-supporting agencies using any of this office space  
8 for payment of these fees. For the purposes of this section, self-supporting agencies are  
9 those agencies designated by the Director of the Budget as being primarily funded from  
10 sources other than State appropriations. Fees assessed under this section shall be paid to  
11 the General Fund."

12

13 Requested by: Senator Warren

14 **PARKING REVENUES**

15 Section 24.5. The Secretary of Administration may use funds from parking  
16 revenues that are in excess of parking system expense requirements to fund the fifteen  
17 dollar (\$15.00) per month subsidies for vanpools and transit passes.

18

19 **PART XXV. OFFICE OF STATE CONTROLLER**

20

21 Requested by: Senator Warren

22 **NORTH CAROLINA INFORMATION HIGHWAY**

23 Section 25. (a) The funds appropriated in this act to the Office of State Controller  
24 for the operation of the North Carolina Information Highway shall be used only for costs  
25 incurred by the Office of State Controller related to the operations and support of the  
26 North Carolina Information Highway. No funds appropriated in this act shall be  
27 expended to pay Minimum Monthly usage charges for North Carolina Information  
28 Highway Services.

29 (b) Of the funds appropriated to the Office of State Controller for the North  
30 Carolina Information Highway (NCIH), an amount not to exceed five hundred thousand  
31 dollars (\$500,000) for fiscal year 1997-98 shall be used to support long distance capacity  
32 and provide for the establishment of regional hubs in each of the seven Local Access  
33 Transport Areas (LATAs) in North Carolina. The remaining funds shall be used to help  
34 defray the costs of existing NCIH sites except those located at university sites other than  
35 East Carolina University academic affairs campus. Any savings accrued shall be placed  
36 in reserve in the Office of State Controller for consideration by the 1997 General  
37 Assembly at its session in 1998.

38 (c) In the interim, the Office of State Controller is encouraged to consider new  
39 technologies and capabilities as a means of providing NCIH users access to information  
40 and resources. The Office of State Controller shall report to the General Assembly in  
41 1998 before the reconvening of the Regular Session on its findings.

42 (d) The State Controller shall report quarterly to the Joint Legislative Commission  
43 on Governmental Operations regarding the costs incurred by the Office of State

1 Controller related to the operations and support of the North Carolina Information  
2 Highway and the savings placed in reserve in the Office of State Controller.

3  
4 Requested by: Senators Rand, Plyler, Perdue, Odom

5 **FUNDS FOR YEAR 2000 CONVERSION OF THE STATE'S COMPUTER**  
6 **SYSTEM**

7 Section 25.1. (a) The Office of State Controller shall include in its charges for  
8 data processing services costs of converting computer applications to operate properly at  
9 the turn of the century. The State Controller shall develop procedures for managing the  
10 year 2000 conversion.

11 (b) The State Controller shall analyze the needs of State agencies for funds to  
12 convert their systems. In the course of the analysis, the State Controller shall consider an  
13 agency's need for each system it wishes to convert and the most cost-effective manner in  
14 which to manage conversion. The State Controller shall certify to the Office of State  
15 Budget and Management the cost of each State agency for the year 2000 conversion.

16 (c) The Director of the Budget may use up to twenty million dollars (\$20,000,000  
17 of projected 1997-98 General Fund reversions to cover the cost of the year 2000  
18 conversion in General Fund agencies during the 1997-98 fiscal year.

19 (d) Beginning October 1, 1997, and quarterly thereafter, the Office of State  
20 Controller shall report to the Joint Legislative Commission on Governmental Operations  
21 on the status of the conversion and cost projections.

22  
23 **PART XXVI. DEPARTMENT OF REVENUE**

24  
25 Requested by: Senator Warren

26 **STUDY REVENUE'S STAFF REQUIREMENTS**

27 Section 26. The Office of State Budget and Management, Management and  
28 Productivity Unit, shall continue work on the assessment of the Department of Revenue's  
29 staff requirements initiated pursuant to Section 15.6 of Chapter 18 of the Session Laws,  
30 Second Extra Session 1996. In the final phase of the study, the Office of State Budget  
31 and Management shall review workload requirements and make specific  
32 recommendations about staffing for the Department. The Office of State Budget and  
33 Management shall make a final report to the House and Senate Appropriations  
34 Subcommittees on General Government and the Fiscal Research Division of the General  
35 Assembly by March 31, 1998, on the results. Prior to March 31, 1998, the Department of  
36 Revenue shall report to the Joint Legislative Commission on Governmental Operations  
37 before creating any new personnel positions.

38  
39 Requested by: Senator Warren

40 **EXTEND AND MODIFY PORTS TAX CREDIT**

41 Section 26.1. (a) Section 4 of Chapter 977 of the 1991 Session Laws, as amended by  
42 Section 3 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

1 "Sec. 4. This act is effective for taxable years beginning on or after March 1, 1992,  
2 and ending on or before February 28, ~~1998~~.2001."

3 (b) Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17  
4 of Chapter 17 of the 1995 Session Laws and by Section 4 of Chapter 495 of the 1995  
5 Session Laws, reads as rewritten:

6 "Sec. 4. This act is effective for taxable years beginning on or after January 1, 1994,  
7 and ending on or before February 28, ~~1998~~.2001."

8 (c) G.S. 105-130.41(b) reads as rewritten:

9 "(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of  
10 tax imposed by this Division for the taxable year reduced by the sum of all credits  
11 allowable, except tax payments made by or on behalf of the corporation. Any unused  
12 portion of the credit may be carried forward for the succeeding five years. The maximum  
13 cumulative credit that may be claimed by a corporation under this section is ~~one~~two  
14 million dollars (~~\$1,000,000~~).(\$2,000,000)."

15 (d) G.S. 105-151.22(b) reads as rewritten:

16 "(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of  
17 tax imposed by this Division for the taxable year reduced by the sum of all credits  
18 allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion  
19 of the credit may be carried forward for the succeeding five years. The maximum  
20 cumulative credit that may be claimed by a taxpayer under this section is ~~one~~two  
21 million dollars (~~\$1,000,000~~).(\$2,000,000)."

22 (e) Subsections (c) and (d) of this section are effective for taxable years  
23 beginning on or after January 1, 1998. The remainder of this section is effective for  
24 taxable years beginning on or after January 1, 1997.

25  
26 Requested by: Senators Plyler, Perdue, Odom

27 **ALLOW CORPORATE ANNUAL REPORTS TO BE FILED WITH**  
28 **DEPARTMENT OF REVENUE AND TO EXTEND TIME FOR**  
29 **REINSTATEMENT AFTER ADMINISTRATIVE DISSOLUTION**

30 Section 26.2. (a) G.S. 55-14-22(a) reads as rewritten:

31 "(a) A corporation administratively dissolved under G.S. 55-14-21 may apply to the  
32 Secretary of State for reinstatement ~~within two years~~not later than five years after the  
33 effective date of dissolution. The application must:

34 (1) Recite the name of the corporation and the effective date of its  
35 administrative dissolution; and

36 (2) State that the ground or grounds for dissolution either did not exist or  
37 have been eliminated.

38 (3) Reserved.

39 (4) Repealed by Session Laws 1995, c. 539, s. 6."

40 (b) G.S. 55A-14-22(a) reads as rewritten:

41 "(a) A corporation administratively dissolved under G.S. 55A-14-21 may apply to  
42 the Secretary of State for reinstatement ~~within two years~~not later than five years after the  
43 effective date of dissolution. The application shall:

1 (1) Recite the name of the corporation and the effective date of its  
2 administrative dissolution; and

3 (2) State that the ground or grounds for dissolution either did not exist or  
4 have been eliminated."

5 (c) G.S. 57C-6-03(c) reads as rewritten:

6 "(c) A limited liability company administratively dissolved under this section may  
7 apply to the Secretary of State for reinstatement ~~within two years~~ not later than five years  
8 after the effective date of the administrative dissolution. The procedures for reinstatement  
9 and for the appeal of any denial of the limited liability company's application for  
10 reinstatement shall be the same procedures applicable to business corporations under G.S.  
11 55-14-22, 55-14-23, and 55-14-24."

12 (d) G.S. 55-16-22 reads as rewritten:

13 "**§ 55-16-22. Annual report for Secretary of State report.**

14 (a) ~~Each~~ Except as provided in subsections (a1) and (a2) of this section, each  
15 domestic corporation except those governed by Chapter 55B, and each foreign  
16 corporation authorized to transact business in this State, State shall deliver to the  
17 Secretary of State for filing an annual report that sets forth: an annual report to the  
18 Secretary of Revenue.

19 (a1) Each insurance company subject to the provisions of Chapter 58 of the General  
20 Statutes shall deliver an annual report to the Secretary of State.

21 (a2) A domestic corporation governed by Chapter 55B of the General Statutes is  
22 exempt from this section.

23 (a3) The annual report required by this section shall be in a form jointly prescribed  
24 by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall  
25 provide the form needed to file an annual report. The annual report shall set forth all of  
26 the following:

27 (1) The name of the corporation and the state or country under whose law it  
28 is ~~incorporated;~~ incorporated.

29 (2) The street address, and the mailing address if different from the street  
30 address, of the registered office, the county in which its registered office  
31 is located, and the name of its registered agent at that office in this State,  
32 and a statement of any change of such registered office or registered  
33 agent, or ~~both;~~ both.

34 (3) The address and telephone number of its principal ~~office;~~ office.

35 (4) The names, titles, and business addresses of its principal ~~officers;~~  
36 officers.

37 (4a) ~~The names and business addresses of its directors; and~~

38 (5) A brief description of the nature of its business.

39 If the information contained in the most recently filed annual report has not changed, a  
40 certification to that effect may be made instead of setting forth the information required  
41 by subdivisions (2) through (5) of this subsection.

42 (b) Information in the annual report must be current as of the date the annual  
43 report is executed on behalf of the corporation.

1 (c) ~~The annual report shall be delivered to the Secretary of State each year within~~  
2 ~~60 days immediately following the last day of the month in which the domestic~~  
3 ~~corporation was incorporated or the foreign corporation received a certificate of authority~~  
4 ~~in this State. Forms required for the filing of the annual report shall be mailed by the~~  
5 ~~Secretary of State to the domestic or foreign corporation at its registered office for the~~  
6 ~~first annual report, then to its principal office for subsequent annual reports. An annual~~  
7 ~~report required to be delivered to the Secretary of Revenue is due by the due date for~~  
8 ~~filing the corporation's income and franchise tax returns. An extension of time to file a~~  
9 ~~return is an extension of time to file an annual report. An annual report required to be~~  
10 ~~delivered to the Secretary of State is due by the fifteenth day of the third month following~~  
11 ~~the close of the corporation's fiscal year.~~

12 (d) If an annual report does not contain the information required by this section,  
13 the Secretary of State shall promptly notify the reporting domestic or foreign corporation  
14 in writing and return the report to it for correction. If the report is corrected to contain  
15 the information required by this section and delivered to the Secretary of State within 30  
16 days after the effective date of notice, it is deemed to be timely filed.

17 (e) Amendments to any previously filed annual report may be filed with the  
18 Secretary of State at any time for the purpose of correcting, updating, or augmenting the  
19 information contained in ~~such~~ the annual report.

20 (f) Expired.

21 (g) When a statement of change of registered office or registered agent is filed in  
22 the annual report, the change shall become effective when the statement is received by  
23 the Secretary of State.

24 (h) If the Secretary of State does not receive an annual report within 120 days of  
25 the date the return is due, the Secretary of State may presume that the annual report is  
26 delinquent. This presumption may be rebutted by receipt of the annual report from the  
27 Secretary of Revenue or by evidence of delivery presented by the filing corporation."

28 (e) G.S. 55-1-21(a) reads as rewritten:

29 "(a) The Secretary of State may promulgate and furnish on request forms ~~for~~ for  
30 the following:

31 (1) An application for a certificate of ~~existence;~~ existence.

32 (2) A foreign corporation's application for a certificate of authority to  
33 transact business in this ~~State;~~ State.

34 (3) A foreign corporation's application for a certificate of ~~withdrawal;~~ and  
35 withdrawal.

36 (4) ~~The annual report.~~

37 If the Secretary of State so requires, use of these forms is mandatory."

38 (f) G.S. 55-1-28(b)(4) reads as rewritten:

39 "(4) That its most recent annual report required by G.S. 55-16-22 has either  
40 been delivered to the Secretary of ~~State;~~ State or is not delinquent."

41 (g) G.S. 55-14-20(2) reads as rewritten:

1           "(2) The corporation ~~does not deliver its annual report to the Secretary of~~  
2           State ~~within 60 days after it is due; is delinquent in delivering its annual~~  
3           report;"

4           (h) G.S. 55-15-30(a)(1) reads as rewritten:

5           "(1) The foreign corporation ~~does not deliver its annual report to the~~  
6           Secretary of State ~~within 60 days after it is due; is delinquent in~~  
7           delivering its annual report;"

8           (i) G.S. 55-16-01(e)(7) reads as rewritten:

9           "(7) Its most recent annual report delivered ~~to the Secretary of State under as~~  
10          required by G.S. 55-16-22."

11          (j) G.S. 57C-2-23 reads as rewritten:

12       **"§ 57C-2-23. Annual report for Secretary of State.**

13          (a) Each domestic limited liability company and each foreign limited liability  
14          company authorized to transact business in this State, shall deliver to the Secretary of  
15          State for filing an annual ~~report~~ report, in a form jointly prescribed by the Secretary of  
16          Revenue and Secretary of State, that sets forth all of the following:

17           (1) The name of the limited liability or foreign limited liability company  
18           and the state or country under whose law it is ~~organized; organized.~~

19           (2) The street address, and the mailing address if different from the street  
20           address, of the registered office, the county in which the registered  
21           office is located, and the name of its registered agent at that office in  
22           this State, and a statement of any change of the registered office or  
23           registered agent, or ~~both; both.~~

24           (3) The address and telephone number of its principal ~~office; office.~~

25           (4) The names and business addresses of its ~~managers; and managers.~~

26           (5) A brief description of the nature of its business.

27       If the information contained in the most recently filed annual report has not changed, a  
28       certification to that effect may be made instead of setting forth the information required  
29       by subdivisions (2) through (5) of this subsection. The Secretary of State shall make  
30       available the form required to file an annual report.

31          (b) Information in the annual report must be current as of the date the annual  
32          report is executed on behalf of the limited liability company or the foreign limited  
33          liability company.

34          (c) The annual report shall be delivered to the Secretary of State ~~each year within~~  
35          ~~60 days immediately following the last day of the month in which the domestic limited~~  
36          ~~liability company was organized or the foreign limited liability company received a~~  
37          ~~certificate of authority in this State. Forms required for the filing of the annual report~~  
38          ~~shall be mailed by the Secretary of State to the domestic or foreign limited liability~~  
39          ~~company at its registered office for the first annual report, and then to its principal office~~  
40          ~~for subsequent annual reports. by the fifteenth day of the fourth month following the~~  
41          close of the limited liability company's fiscal year.

42          (d) If an annual report does not contain the information required by this section,  
43          the Secretary of State shall promptly notify the reporting domestic or foreign limited

1 liability company in writing and return the report to it for correction. If the report is  
2 corrected to contain the information required by this section and delivered to the  
3 Secretary of State within 30 days after the effective date of notice, it is deemed to be  
4 timely filed.

5 (e) Amendments to any previously filed annual report may be filed with the  
6 Secretary of State at any time for the purpose of correcting, updating, or augmenting the  
7 information contained in the annual report."

8 (k) G.S. 57C-3-25(a) reads as rewritten:

9 "(a) Any person dealing with a limited liability company or a foreign limited  
10 liability company may rely conclusively upon its most recent annual report and any  
11 amendments ~~thereto filed with to it on file with~~ the Secretary of State ~~pursuant to G.S.~~  
12 ~~57C-2-23~~ as to the identity of its managers, except to the extent the person has actual  
13 knowledge that a person identified therein as a manager is not a manager."

14 (l) G.S. 105-259 reads as rewritten:

15 **"§ 105-259. Secrecy required of officials; penalty for violation.**

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

17 (1) Employee or officer. – The term includes a former employee, a former  
18 officer, and a current or former member of a State board or commission.

19 (2) Tax information. – Any information from any source concerning the  
20 liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term  
21 includes the following:

22 a. Information contained on a tax return, a tax report, or an  
23 application for a license for which a tax is imposed.

24 b. Information obtained through an audit of a taxpayer or by  
25 correspondence with a taxpayer.

26 c. Information on whether a taxpayer has filed a tax return or a tax  
27 report.

28 d. A list or other compilation of the names, addresses, social  
29 security numbers, or similar information concerning taxpayers.

30 The term does not include (i) statistics classified so that information  
31 about specific taxpayers cannot be ~~identified or (ii) identified, (ii) an~~  
32 annual report required to be filed under G.S. 55-16-22 or (iii)  
33 information submitted to the Business License Information Office of the  
34 Department of Secretary of State on a master application form for  
35 various business licenses.

36 (b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who  
37 has access to tax information in the course of service to or employment by the State may  
38 not disclose the information to any other person unless the disclosure is made for one of  
39 the following purposes:

40 (1) To comply with a court order or a law.

41 (2) Review by the Attorney General or a representative of the Attorney  
42 General.

- 1 (3) Review by a tax official of another state or the Internal Revenue  
2 Commissioner of the United States to aid the state or the Commissioner  
3 in collecting a tax imposed by this State, the other state, or the United  
4 States if the laws of the other state or the United States allow the state or  
5 the United States to provide similar tax information to a representative  
6 of this State.
- 7 (4) To provide a governmental agency or an officer of an organized  
8 association of taxpayers with a list of taxpayers who have paid a  
9 privilege license tax under Article 2 of this Chapter.
- 10 (5) To furnish to the chair of a board of county commissioners information  
11 on the county sales and use tax.
- 12 (6) To sort, process, or deliver tax information on behalf of the Department  
13 of Revenue.
- 14 (6a) To furnish the chair of a board of county commissioners a list of  
15 claimants that have received a refund of the county sales or use tax to  
16 the extent authorized in G.S. 105- 164.14(f).
- 17 (7) To exchange information with the Division of Motor Vehicles of the  
18 Department of Transportation when the information is needed to fulfill a  
19 duty imposed on the Department of Revenue or the Division of Motor  
20 Vehicles.
- 21 (8) To furnish to the Department of State Treasurer, upon request, the  
22 name, address, and account and identification numbers of a taxpayer  
23 who may be entitled to property held in the Escheat Fund.
- 24 (9) To furnish to the Employment Security Commission the name, address,  
25 and account and identification numbers of a taxpayer when the  
26 information is requested by the Commission in order to fulfill a duty  
27 imposed under Article 2 of Chapter 96 of the General Statutes.
- 28 (10) Review by the State Auditor to the extent authorized in G.S. 147-64.7.
- 29 (11) To give a spouse who elects to file a joint tax return a copy of the return  
30 or information contained on the return.
  - 31 (11a) To provide a copy of a return to the taxpayer who filed the return.
  - 32 (11b) In the case of a return filed by a corporation, a partnership, a trust, or  
33 an estate, to provide a copy of the return or information on the return  
34 to a person who has a material interest in the return if, under the  
35 circumstances, section 6103(e)(1) of the Code would require  
36 disclosure to that person of any corresponding federal return or  
37 information.
  - 38 (11c) In the case of a return of an individual who is legally incompetent or  
39 deceased, to provide a copy of the return to the legal representative  
40 of the estate of the incompetent individual or decedent.
- 41 (12) To contract with a financial institution for the receipt of withheld  
42 income tax payments under G.S. 105-163.6 or for the transmittal of  
43 payments by electronic funds transfer.



- 1 (13) To furnish the Fiscal Research Division of the General Assembly,  
2 upon request, a sample, suitable in character, composition, and size  
3 for statistical analyses, of tax returns or other tax information from  
4 which taxpayers' names and identification numbers have been  
5 removed.
- 6 (14) To exchange information concerning a tax imposed by Subchapter V  
7 of this Chapter with the Standards Division of the Department of  
8 Agriculture when the information is needed to administer the  
9 Gasoline and Oil Inspection Act, Article 3 of Chapter 119 of the  
10 General Statutes.
- 11 (15) To exchange information concerning a tax imposed by Articles 2A,  
12 2B, 2C, or 2D of this Chapter with one of the following agencies  
13 when the information is needed to fulfill a duty imposed on the  
14 agency:
- 15 a. The North Carolina Alcoholic Beverage Control Commission.  
16 b. The Division of Alcohol Law Enforcement of the Department of  
17 Crime Control and Public Safety.  
18 c. The Bureau of Alcohol, Tobacco, and Firearms of the United  
19 States Treasury Department.
- 20 (16) To furnish to the Department of Secretary of State the name,  
21 address, tax year end, and account and identification numbers of a  
22 corporation liable for corporate income or franchise taxes or of a  
23 limited liability company liable for a corporate or a partnership tax  
24 return to enable the Secretary of State to notify the corporation or the  
25 limited liability company of the annual report filing requirement or  
26 that its articles of incorporation or articles of organization or its  
27 certificate of authority has been suspended.
- 28 (17) To inform the Business License Information Office of the  
29 Department of Secretary of State of the status of an application for a  
30 license for which a tax is imposed and of any information needed to  
31 process the application.
- 32 (18) To furnish to the Office of the State Controller the name, address,  
33 and account and identification numbers of a taxpayer upon request to  
34 enable the State Controller to verify statewide vendor files or track  
35 debtors of the State.
- 36 (19) To furnish to the North Carolina Industrial Commission information  
37 concerning workers' compensation reported to the Secretary under  
38 G.S. 105-163.7.

39 (c) Punishment. – A person who violates this section is guilty of a Class 1  
40 misdemeanor. If the person committing the violation is an officer or employee, that  
41 person shall be dismissed from public office or public employment and may not hold any  
42 public office or public employment in this State for five years after the violation."

1 (m) Subsections (a), (b), (c) and (l) of this section become effective July 1,  
2 1997. The remainder of this section becomes effective January 1, 1998, and applies to  
3 tax years ending on or after December 31, 1997, in the case of corporations required to  
4 file annual reports with the Secretary of Revenue and to fiscal years ending on or after  
5 December 31, 1997, in the case of corporations and limited liability companies required  
6 to file annual reports with the Secretary of State.

7 Annual reports delivered to either the Secretary of State or the Secretary of  
8 Revenue after December 31, 1997, but before January 1999, shall nevertheless be  
9 deemed filed with the correct State agency. The Secretary of State shall notify the  
10 Secretary of Revenue of reports erroneously filed with the Secretary of State, and the  
11 Secretary of Revenue shall notify the Secretary of State of reports erroneously filed with  
12 the Secretary of Revenue.

## 13 14 **PART XXVII. DEPARTMENT OF CULTURAL RESOURCES**

15  
16 Requested by: Senator Warren

### 17 **DEPARTMENT OF CULTURAL RESOURCES RETAIN HISTORICAL** 18 **PUBLICATIONS RECEIPTS**

19 Section 27. The Historical Publications Section, Division of Archives and  
20 History, Department of Cultural Resources, may retain the receipts, including over-  
21 realized receipts, from the sale of its publications during each year of the 1997-99  
22 biennium. The receipts from the sale of those publications retained by the Historical  
23 Publications Section shall not revert, but shall be used to reprint the publications.

24  
25 Requested by: Senator Warren

### 26 **MODIFY THE AREAS OF RESPONSIBILITY OF THE ROANOKE ISLAND** 27 **COMMISSION**

28 Section 27.1. G.S. 143B-131.2(b)(1) reads as rewritten:

29 "(1) To advise the Secretary of Transportation and adopt rules on matters  
30 pertaining to, affecting, and encouraging restoration, preservation,  
31 and enhancement of the appearance, maintenance, and aesthetic  
32 quality of U.S. Highway 64/264 and the U.S. 64/264 Bypass and  
33 N.C. 400 travel corridors on Roanoke Island and the grounds on ~~Lee~~  
34 Plant Island. Roanoke Island Festival Park."

35  
36 Requested by: Senator Warren

### 37 **TRANSFER FIRST FLIGHT CENTENNIAL COMMISSION TO DOT**

38 Section 27.2. (a) The First Flight Centennial Commission, described in Article  
39 67 of Chapter 143 of the General Statutes, is transferred from the Department of Cultural  
40 Resources to the Department of Transportation, Division of Aviation. This transfer shall  
41 have all of the elements of a Type II transfer, as that term is defined in G.S. 143-6(b).

42 (b) G.S. 143-640 reads as rewritten:

1       "(a) Establishment. – There is established the First Flight Centennial Commission.  
2 The Commission shall be located within the Department of ~~Cultural Resources~~  
3 Transportation for organizational, budgetary, and administrative purposes."

4       (c) G.S. 143-640(c) reads as rewritten:

5       "(c) Membership. – The Commission shall consist of ~~26~~27 members, as follows:

6           (1) Four persons appointed by the Governor.

7           (2) Four persons appointed by the President Pro Tempore of the Senate.

8           (3) Four persons appointed by the Speaker of the House of  
9 Representatives.

10          (4) The following persons or their designees, ex officio:

11           a. The Governor.

12           b. The President Pro Tempore of the Senate.

13           c. The Speaker of the House of Representatives.

14           d. The United States Senators from this State.

15           e. The member of the United States House of Representatives for  
16 the Third Congressional District.

17           f. The Governor of the State of Ohio.

18           g. The Secretary of the Department of Cultural Resources.

19           h. The Superintendent of the Cape Hatteras National Seashore of  
20 the United States National Park Service.

21           i. The chair of the Centennial of Flight Commemoration  
22 Commission.

23           j. The President of the First Flight Society.

24           k. The chair of the Dare County Board of Commissioners.

25           l. The Mayor of the Town of Kill Devil Hills.

26           m. The chair of the Dare County Tourism Board.

27           n. The Secretary of the Department of Transportation.

28       The members appointed to the First Flight Centennial Commission shall be chosen  
29 from among individuals who have the ability and commitment to promote and fulfill the  
30 purposes of the Commission, including individuals who have demonstrated expertise in  
31 the fields of aeronautics, aerospace science, or history, who have contributed to the  
32 development of the fields of aeronautics or aerospace science, or who have demonstrated  
33 a commitment to serving the public."

34       (d) G.S. 143-641(c) reads as rewritten:

35       "(c) Contract Authority. – The Commission may procure supplies, services, and  
36 property as appropriate, and may enter into contracts, leases, or other legal agreements to  
37 carry out the purposes of this Article. All contracts, leases, or legal agreements entered  
38 into by the Commission shall terminate on the date of termination of the Commission.  
39 Termination shall not affect any disputes or causes of action of the Commission that arise  
40 before the date of termination, and the Department of ~~Cultural Resources~~Transportation  
41 may prosecute or defend any causes of action arising before the date of termination. All  
42 property acquired by the Commission that remains in the possession of the Commission

1 on the date of termination shall become the property of the Department of ~~Cultural~~  
2 ~~Resources-Transportation~~."

3 (e) G.S. 143-642(b) reads as rewritten:

4 "(b) Office Space. – The Department of ~~Cultural Resources-Transportation~~ shall  
5 provide office space in Raleigh for use as offices by the First Flight Centennial  
6 Commission, and the Department of ~~Cultural Resources-Transportation~~ shall receive no  
7 reimbursement from the Commission for the use of the property during the life of the  
8 Commission."  
9

10 Requested by: Senator Warren

### 11 MUSEUM OF HISTORY RESTAURANT

12 Section 27.3. Within the funds available, the Secretary of Cultural Resources  
13 may contract with any person, firm, or corporation to provide restaurant services in the  
14 North Carolina Museum of History, as provided in subdivisions (16) and (17) of G.S.  
15 121-4.  
16

17 Requested by: Senator Warren

### 18 FUNDS FOR MUSEUM OF THE ALBEMARLE

19 Section 27.4. The Office of State Budget and Management is authorized to  
20 transfer the sum of forty-seven thousand eight hundred eighty-seven dollars (\$47,887)  
21 from Fund 1110 (Code 536930) to Fund 1500 (Code 534160) to replace funds that were  
22 reallocated in the 1996-97 fiscal year to support Newbold-White House.  
23

24 Requested by: Senators Plyler, Perdue, Odom

### 25 PROCEDURE FOR AWARD OF CULTURAL RESOURCES GRANTS

26 Section 27.5. Of the funds appropriated to the Department of Cultural  
27 Resources, the sum of eight million dollars (\$8,000,000) for the 1997-98 fiscal year shall  
28 be used for grants to nonprofit organizations or local governmental entities throughout  
29 the State for cultural, historical, or artistic organizations, for cultural, historical, or artistic  
30 projects, and for museums. The Secretary of the Department of Cultural Resources shall  
31 establish a process for the review, evaluation, and consideration of applications for these  
32 grants.  
33

34 In awarding grants, the Secretary shall consider the merits of the project, the  
35 cultural, historical, or artistic significance of the project, the benefit to the State and local  
36 communities of the project, and the cost of the project. Prior to awarding grants, the  
37 Secretary shall consult with the Joint Legislative Commission on Governmental  
38 Operations. These grants are not subject to review by the Historical Commission.  
39

### 39 PART XXVIII. STATE BOARD OF ELECTIONS

40  
41 Requested by: Senator Warren

### 42 STATEWIDE DATA ELECTIONS MANAGEMENT SYSTEM

1 Section 28. (a) The State Board of Elections shall adopt rules for a statewide data  
2 elections management system. Those rules shall include data format standards, data  
3 communication standards, and data content standards. The State Board of Elections shall  
4 adopt those rules, including the standards, no later than November 1, 1997. Counties shall  
5 adhere to the rules and standards no later than August 31, 1998.

6 (b) Of the funds appropriated in this act to the State Board of Elections for a  
7 statewide data elections management system, the sum of one hundred fifty thousand  
8 dollars (\$150,000) may be used by the State Board of Elections to hire a project manager,  
9 to research and determine the needs of the local boards of election in each county, and to  
10 develop a needs assessment report.

11 (c) The remainder of the funds appropriated in Section 13.2 of Chapter 597 of the  
12 1995 Session Laws shall be used to develop, implement, and operate a statewide data  
13 elections management system, which will include voter registration, campaign reporting,  
14 and election night returns. These funds shall be used only after the State Board of  
15 Elections and the Information Resource Management Commission have jointly approved  
16 and submitted a written, detailed implementation plan for statewide data elections  
17 management to the Joint Legislative Commission on Governmental Operations. That  
18 implementation plan shall include:

- 19 (1) A description of the system being implemented;
- 20 (2) A description of the system's capabilities, including user-  
21 friendliness;
- 22 (3) An itemized estimate of the costs of the system, with a justification  
23 for each item, including a plan for implementing the system within  
24 the funds appropriated;
- 25 (4) A list of the counties to be brought into the system during the fiscal  
26 year; and
- 27 (5) A proposed project management plan.

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

33 (d) To the extent that this section conflicts with G.S. 163-82.11 through G.S. 163-  
34 82.13, with Section 16 of Chapter 769 of the 1993 Session Laws, or with Section 13.2 of  
35 Chapter 507 of the 1995 Session Laws, this section prevails to the extent of the conflict.  
36 Except to the extent of the conflict, Section 16 of Chapter 769 of the 1993 Session Laws  
37 remains in effect.

## 38 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

39 Requested by: Senator Jordan

### 40 **GLOBAL TRANSPARK AUTHORITY TO REIMBURSE HIGHWAY FUND**

### 41 **FROM FEDERAL SOURCES**

1 Section 29. When funds are provided from the Highway Fund to the Global  
2 TransPark Authority for environmental impact statements or assessments and the Global  
3 TransPark Authority applies for and receives reimbursement for those expenses from  
4 federal sources up to one million eight hundred thousand dollars (\$1,800,000), the federal  
5 reimbursements shall be paid over by the Global TransPark Authority into the Highway  
6 Fund within 30 days of receipt. These funds shall be allocated to State-funded  
7 maintenance appropriations in the manner approved by the Board of Transportation.  
8

9 Requested by: Senator Jordan

#### 10 AIRCRAFT AND FERRY ACQUISITIONS

11 Section 29.1. G.S. 143B-350 is amended by adding a new subsection to read:  
12 "(i) Before approving the purchase of an aircraft from the Equipment Fund or a  
13 ferry in a Transportation Improvement Program, the Board of Transportation shall  
14 prepare an estimate of the operational costs and capital costs associated with the addition  
15 of the aircraft or ferry and shall report those additional costs to the General Assembly  
16 pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental  
17 Operations."  
18

19 Requested by: Senator Jordan

#### 20 DEPARTMENT OF TRANSPORTATION TO PAY DEPARTMENT OF 21 CORRECTION ONLY FOR ACTUAL MEDIUM CUSTODY INMATE LABOR

22 Section 29.2. The Department of Transportation shall pay the Department of  
23 Correction only for the actual labor performed by medium custody inmates.  
24

25 Requested by: Senator Jordan

#### 26 HIGHWAY FUND ALLOCATIONS BY CONTROLLER

27 Section 29.3. Article 1 of Chapter 136 of the General Statutes is amended by  
28 adding a new section to read:

#### 29 "§ 136-16.10. Allocations by Department Controller to eliminate overdrafts.

30 The Controller of the Department of Transportation shall allocate at the beginning of  
31 each fiscal year from the various appropriations made to the Department of  
32 Transportation for State Construction, State Funds to Match Federal Highway Aid, State  
33 Maintenance, and Ferry Operations, sufficient funds to eliminate all overdrafts on State  
34 maintenance and construction projects, and these allocations shall not be diverted to other  
35 purposes."  
36

37 Requested by: Senator Jordan

#### 38 SMALL URBAN CONSTRUCTION PROGRAM DISCRETIONARY FUNDS

39 Section 29.4. Of the funds appropriated in this act to the Department of  
40 Transportation:

- 41 (1) \$14,000,000 shall be allocated in each fiscal year for small urban  
42 construction projects. These funds shall be allocated equally in each  
43 fiscal year of the biennium among the 14 Highway Divisions for the

1 small urban construction program for small urban construction  
2 projects that are located within the area covered by a one-mile radius  
3 of the municipal corporate limits.

4 (2) \$10,000,000 shall be used statewide for rural or small urban  
5 highway improvements, industrial access roads, and spot safety  
6 projects as approved by the Secretary of the Department of  
7 Transportation.

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

10 The Department of Transportation shall report to the members of the General  
11 Assembly on projects funded pursuant to this section in each member's district prior to  
12 the Board of Transportation's action. The Department shall make a quarterly  
13 comprehensive report on the use of these funds to the Joint Legislative Transportation  
14 Oversight Committee and the Fiscal Research Division.

15  
16 Requested by: Senator Jordan

#### 17 **USE OF ANNUAL UNRESERVED HIGHWAY FUND CREDIT BALANCE**

18 Section 29.5. G.S. 136-44.2 reads as rewritten:

#### 19 **"§ 136-44.2. Budget and appropriations.**

20 The Director of the Budget shall include in the 'Current Operations Appropriations  
21 Bill' an enumeration of the purposes or objects of the proposed expenditures for each of  
22 the construction and maintenance programs for that budget period for the State primary,  
23 secondary, urban, and State parks road systems. The State primary system shall include  
24 all portions of the State highway system located outside municipal corporate limits which  
25 are designated by N.C., U.S. or Interstate numbers. The State secondary system shall  
26 include all of the State highway system located outside municipal corporate limits that is  
27 not a part of the State primary system. The State urban system shall include all portions  
28 of the State highway system located within municipal corporate limits. The State parks  
29 system shall include all State parks roads and parking lots which are not also part of the  
30 State highway system.

31 All construction and maintenance programs for which appropriations are requested  
32 shall be enumerated separately in the budget. Programs that are entirely State funded  
33 shall be listed separately from those programs involving the use of federal-aid funds.  
34 Proposed appropriations of State matching funds for each of the federal-aid construction  
35 programs shall be enumerated separately as well as the federal-aid funds anticipated for  
36 each program in order that the total construction requirements for each program may be  
37 provided for in the budget. Also, proposed State matching funds for the highway  
38 planning and research program shall be included separately along with the anticipated  
39 federal-aid funds for that purpose.

40 Other program categories for which appropriations are requested, such as, but not  
41 limited to, maintenance, channelization and traffic control, bridge maintenance, public  
42 service and access road construction, and ferry operations shall be enumerated in the  
43 budget.

1 The Department of Transportation shall have all powers necessary to comply fully  
2 with provisions of present and future federal-aid acts. No federally eligible construction  
3 project may be funded entirely with State funds unless the Department of Transportation  
4 has first consulted with the Joint Legislative Commission on Governmental Operations.  
5 For purposes of this section, 'federally eligible construction project' means any  
6 construction project except secondary road projects developed pursuant to G.S. 136-44.7  
7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal  
8 funds are actually available.

9 The 'Current Operations Appropriations Bill' shall also contain the proposed  
10 appropriations of State funds for use in each county for maintenance and construction of  
11 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State  
12 funds appropriated for secondary roads shall not be transferred nor used except for the  
13 construction and maintenance of secondary roads in the county for which they are  
14 allocated pursuant to G.S. 136-44.5 and 136-44.6.

15 ~~In the event receipts and increments to the State Highway Fund shall be more than the~~  
16 ~~appropriations made for the preceding fiscal year, such excesses shall be allocated by the~~  
17 ~~Director of the Budget to the Department of Transportation for school and industrial~~  
18 ~~access roads and unforeseen happenings or state of affairs requiring prompt action, with~~  
19 ~~fifty percent (50%) of the balance to be allocated to the State secondary roads program on~~  
20 ~~the basis of need as determined by the Department of Transportation and the remaining~~  
21 ~~fifty percent (50%) to be allocated in accordance with G.S. 136-44.5. If the unreserved~~  
22 ~~credit balance in the Highway Fund on the last day of a fiscal year is greater than the~~  
23 ~~amount estimated for that date in the Current Operations Appropriations Act for the~~  
24 ~~following fiscal year, the excess shall be used in accordance with this paragraph. The~~  
25 ~~Director of the Budget may allocate part or all of the excess among reserves for access~~  
26 ~~and public roads, for unforeseen events requiring prompt action, or for other urgent~~  
27 ~~needs. The amount not allocated to any of these reserves by the Director of the Budget~~  
28 ~~shall be credited to a reserve for maintenance. The Board of Transportation shall report~~  
29 ~~monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal~~  
30 ~~Research Division on the use of funds in the maintenance reserve.~~

31 The Department of Transportation may provide for costs incurred or accrued for  
32 traffic control measures to be taken by the Department at major events which involve a  
33 high degree of traffic concentration on State highways, and which cannot be funded from  
34 regular budgeted items. This authorization applies only to events which are expected to  
35 generate 30,000 vehicles or more per day. The Department of Transportation shall  
36 provide for this funding by allocating and reserving up to one hundred thousand dollars  
37 (\$100,000) before any other allocations from the appropriations for State maintenance for  
38 primary, secondary, and urban road systems are made, based upon the same proportion as  
39 is appropriated to each system."

40  
41 Requested by: Senator Jordan

42 **DRIVERS EDUCATION FUNDING**



1 Section 29.6. From funds appropriated by this act to the Department of  
2 Transportation, the Department shall pay for the increased costs for drivers education due  
3 to the projected increase in average daily membership in the ninth grade drivers  
4 education program.

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

7  
8 Requested by: Senator Jordan

9 **BRANCH AGENT REIMBURSEMENT RATE**

10 Section 29.7. (a)G.S. 20-63(h) reads as rewritten:

11 "(h) Commission Contracts for Issuance of Plates and Certificates. – All  
12 registration plates, registration certificates and certificates of title issued by the Division,  
13 outside of those issued from the Raleigh offices of the said Division and those issued and  
14 handled through the United States mail, shall be issued insofar as practicable and possible  
15 through commission contracts entered into by the Division for the issuance of such plates  
16 and certificates in localities throughout North Carolina with persons, firms, corporations  
17 or governmental subdivisions of the State of North Carolina and the Division shall make  
18 a reasonable effort in every locality, except as hereinbefore noted, to enter into a  
19 commission contract for the issuance of such plates and certificates and a record of these  
20 efforts shall be maintained in the Division. In the event the Division is unsuccessful in  
21 making commission contracts as hereinbefore set out it shall then issue said plates and  
22 certificates through the regular employees of the Division. Whenever registration plates,  
23 registration certificates and certificates of title are issued by the Division through  
24 commission contract arrangements, the Division shall provide proper supervision of such  
25 distribution. Commission contracts entered under this subsection shall provide for the  
26 payment of compensation ~~at a rate of sixty cents (60¢) per transaction~~ for all transactions  
27 as set forth below. Nothing contained in this subsection will allow or permit the  
28 operation of fewer outlets in any county in this State than are now being operated.

29 A transaction is any of the following activities:

- 30 (1) Issuance of a registration plate, a registration card, a registration  
31 renewal sticker, or a certificate of title.  
32 (2) Issuance of a handicapped placard or handicapped identification  
33 card.  
34 (3) Acceptance of an application for a personalized registration plate.  
35 (4) Acceptance of a surrendered registration plate, registration card, or  
36 registration renewal sticker, or acceptance of an affidavit stating why  
37 a person cannot surrender a registration plate, registration card, or  
38 registration renewal sticker.  
39 (5) Cancellation of a title because the vehicle has been junked.  
40 (6) Acceptance of an application for, or issuance of, a refund for a fee or  
41 a tax, other than the highway use tax.

1           (7)     Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in  
2                   financial responsibility or receipt of the restoration fee imposed by  
3                   that statute.

4           (8)     Acceptance of a notice of failure to maintain financial responsibility  
5                   for a motor vehicle.

6           (9)     Collection of the highway use tax.

7           Performance at the same time of any combination of the items that are listed within  
8           each subdivision or are listed within subdivisions (1) through (8) of this section is a  
9           single transaction for which a dollar and thirty-five cent (\$1.35) compensation shall be  
10           paid. Performance of the item listed in subdivision (9) of this subsection in combination  
11           with any other items listed in this subsection is a separate transaction for which a one  
12           dollar and twenty cent (\$1.20) compensation shall be paid."

13           (b)     The Department of Transportation shall develop performance measures for  
14           commission agent contracts, entered into pursuant to G.S. 20-63(h), as a basis for judging  
15           compliance with those contracts. The Department shall report on the performance  
16           measures to the Joint Legislative Transportation Oversight Committee and the Fiscal  
17           Research Division by December 1, 1997. No performance measures shall be  
18           implemented prior that review.

19           (c)     Subsection (a) of this section becomes effective July 1, 1997.

20  
21           Requested by: Senator Jordan

22           **INTERNATIONAL REGISTRATION PLAN BUDGET CODE MERGED INTO**  
23           **VEHICLE REGISTRATION BUDGET CODE**

24           Section 29.8. Within Budget Code 84260 (Division of Motor Vehicles), fund  
25           0560 (International Registration Plan Section) shall be merged into fund 0520 (Vehicle  
26           Registration).

27  
28           Requested by: Senator Jordan

29           **PRIVATIZATION OF THE SCHOOL BUS DRIVER TRAINING PROGRAM**

30           Section 29.9. The Department of Transportation shall prepare a plan for the  
31           privatization of school bus driver training. This plan shall include, but not be limited to  
32           the following:

33           (1)     A full description of the school bus driver training activities carried  
34                   out by the Department.

35           (2)     An accounting of all costs, both personnel and nonpersonnel costs,  
36                   to the Department related to school bus driver training.

37           (3)     A list of all Department positions performing functions related to  
38                   school bus driver training and the portion of time that each position  
39                   devotes to these functions.

40           (4)     A draft request for proposals for private contracts to provide all  
41                   school bus driver training services.

1 (5) An estimate of the cost of private contracts to provide all school bus  
2 driver training services and an explanation of how that estimate was  
3 developed.

4 (6) A detailed estimate of the projected cost to the Department to  
5 administer contracts for school bus driver training.

6 (7) A schedule for issuing a contract for school bus driver training and a  
7 schedule for the elimination of Department positions and  
8 expenditures related to that training.

9 Copies of the plan shall be provided to the Chairs of the Joint Legislative  
10 Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998.

11  
12 Requested by: Senator Jordan

### 13 **HIGHWAY FUND LIMITATIONS ON OVEREXPENDITURES**

14 Section 29.10. (a) Overexpenditures from Section 3 of this act may be made by  
15 authorization of the Director of the Budget,

16 Titles:

17 State Construction Primary Construction

18 State Construction Urban Construction

19 Spot Safety Construction

20 State Construction Access and Public Service Roads

21 State Funds to Match Federal Highway Aid

22 State Maintenance

23 Ferry Operations,

24 provided that there are corresponding underexpenditures from these same Titles.  
25 Overexpenditures or underexpenditures in any Titles shall not vary by more than ten  
26 percent (10%) without prior consultation with the Advisory Budget Commission.  
27 Written reports covering overexpenditures or underexpenditures of more than ten percent  
28 (10%) shall be made to the Joint Legislative Transportation Oversight Committee. The  
29 reports shall be delivered to the Director of the Fiscal Research Division not less than 96  
30 hours prior to the beginning of the Commission's full meeting.

31 (b) Overexpenditures from Section 3 of this act,

32 Titles:

33 State Construction Primary Construction

34 State Construction Urban Construction

35 Spot Safety Construction

36 State Construction Access and Public Service Roads

37 State Funds to Match Federal Highway Aid

38 State Maintenance

39 Ferry Operations,

40 for the purpose of providing additional positions shall be approved by the Director of the  
41 Budget and shall be reported on a quarterly basis to the Joint Legislative Transportation  
42 Oversight Committee and to the Fiscal Research Division.

1 Requested by: Senator Jordan

2 **DEPARTMENT OF TRANSPORTATION EXEMPTION FROM GENERAL**  
3 **STATUTES FOR EXPERIMENTAL PROJECT-CONGESTION**  
4 **MANAGEMENT**

5 Section 29.11. The Department of Transportation may enter into a design-  
6 build-warrant contract to develop, with Federal Highway Administration participation  
7 under The 1991 Intermodal Surface Transportation Efficiency Act, Title VI, Part B,  
8 Sections 6051-6059, a "Congestion Avoidance and Reduction for Autos and Trucks  
9 (CARAT)" system of traffic management for the greater Charlotte-Mecklenburg urban  
10 areas. Notwithstanding any other provision of law, contractors, contractors' employees,  
11 and Department of Transportation employees involved in this project only do not have to  
12 be licensed by occupational licensing boards as "license" and "occupational licensing  
13 board" are defined in G.S. 93B-1; and for the purpose of entering into contracts, the  
14 Department of Transportation is exempted from the provisions of the following General  
15 Statutes: G.S. 136-28.1, 143-52, 143-53, 143-58, 143-128, and 143-129. These statutory  
16 exemptions are limited and available only to the extent necessary to comply with federal  
17 rules, regulations, and policies for completion of this project.

18 The Department of Transportation shall report quarterly to the Joint Legislative  
19 Transportation Oversight Committee on its efforts to enter into a design-build-warrant  
20 contract and to award and construct the project. The report shall include, but not be  
21 limited to, the number of types of firms bidding on the project, special qualifications of  
22 the firms bidding, and the effect statutory exemptions might have had on the award and  
23 construction of the project and the receipt of federal discretionary funding for the project.

24

25 Requested by: Senator Jordan

26 **RESURFACED ROADS MAY BE WIDENED**

27 Section 29.12. Chapter 136 of the General Statutes is amended by adding a  
28 new section to read:

29 **"§ 136-44.16. Resurfaced roads may be widened.**

30 Of the contract maintenance resurfacing program funds appropriated by the General  
31 Assembly to the Department of Transportation, an amount not to exceed fifteen percent  
32 (15%) of the Board of Transportation's allocation of these funds may be used for  
33 widening existing narrow pavements that are scheduled for resurfacing."

34

35 Requested by: Senator Jordan

36 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**  
37 **APPROPRIATIONS**

38 Section 29.13. The General Assembly authorizes and certifies anticipated  
39 revenues of the Highway Fund as follows:

40 FY 1999-2000 \$1,182.2 million

41 FY 2000-2001 \$1,211.2 million

42 FY 2001-2002 \$1,241.2 million

43 FY 2002-2003 \$1,271.9 million

1 The General Assembly authorizes and certifies anticipated revenues of the  
2 Highway Trust Fund as follows:

3	FY 1999-2000	\$861.7 million
4	FY 2000-2001	\$891.0 million
5	FY 2001-2002	\$921.6 million
6	FY 2002-2003	\$953.3 million

7  
8 Requested by: Senator Jordan

9 **F.E.M.A. RECEIVABLES**

10 Section 29.14. The Department of Transportation shall report to the Joint  
11 Legislative Transportation Oversight Committee and the Fiscal Research Division by  
12 March 1, 1998, on the status of Federal Emergency Management Agency receivables for  
13 past natural disasters and the efforts by the State to collect those funds from the federal  
14 government.

15  
16 Requested by: Senator Jordan

17 **FEASIBILITY STUDY OF DRIVERS EDUCATION TESTING**

18 Section 29.15. The Department of Transportation and the Department of  
19 Public Instruction shall conduct a study of the feasibility of having drivers education  
20 instructors, rather than Division of Motor Vehicles examiners, administer the required  
21 written and road tests before a student is issued his or her first drivers permit or license.

22 The Department of Transportation shall report to the Joint Legislative  
23 Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998,  
24 on the results of this feasibility study along with any enabling legislation necessary to  
25 implement any recommended changes.

26  
27 Requested by: Senator Jordan

28 **GLOBAL TRANSPARK AUTHORITY BUSINESS PLAN FOR**  
29 **DISADVANTAGED BUSINESS PARTICIPATION**

30 Section 29.16. The Global TransPark Authority shall develop a business plan  
31 for meeting its ten percent (10%) goal for disadvantaged business participation in  
32 contracting. The Global TransPark Authority shall submit a copy of that business plan to  
33 the Joint Legislative Transportation Oversight Committee and the Fiscal Research  
34 Division by March 1, 1998.

35  
36 Requested by: Senator Jordan

37 **USE OF PUBLIC TRANSPORTATION AND PASSENGER RAIL FUNDING**

38 Section 29.17. The Department of Transportation shall prepare a plan for the  
39 use of the expansion funds provided in this act for the improvement of public  
40 transportation and passenger rail service. This plan shall set out the specific purposes for  
41 which the funds will be used and shall set specific, quantitative goals to be met through  
42 the use of the additional funds.

43 The goals shall address the following:

- 1 (1) Travel time, cost recovery, and business ridership of passenger rail
- 2 service between Raleigh and Charlotte;
- 3 (2) Extension of passenger rail service to Asheville;
- 4 (3) Assessment of the feasibility and costs of extending passenger rail
- 5 service in Eastern North Carolina;
- 6 (4) Increases in the number of routes served by rural, urban, and
- 7 regional public transportation systems;
- 8 (5) Increases in ridership for rural, urban, and regional public
- 9 transportation systems;
- 10 (6) Public transportation service to Work First clients; and
- 11 (7) Cost savings achieved by rural, urban, and regional public
- 12 transportation systems through the use of new technologies.

13 The Department of Transportation shall present this plan to the Joint  
14 Legislative Transportation Oversight Committee by October 1, 1997, and shall make a  
15 report to the 1999 session of the General Assembly indicating the Department's  
16 performance in meeting the goals set forth in the plan.

17  
18 Requested by: Senator Jordan

#### 19 **FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS**

20 Section 29.18. To the extent allowable by federal law, the Department of  
21 Transportation shall use ten million dollars (\$10,000,000) of federal highway funds for  
22 improvements to public transportation.

23  
24 Requested by: Senator Jordan

#### 25 **BIENNIAL REPORT ON MAINTENANCE REQUIREMENTS**

26 Section 29.19. G.S. 136-44.3 reads as rewritten:

27 "~~§ 136-44.3. Annual maintenance program; State primary and urban systems.~~  
28 Maintenance program.

29 ~~The Department of Transportation shall make a study of the maintenance needs and~~  
30 ~~costs of the State primary and urban systems. On the basis of the costs and proposed~~  
31 ~~appropriations, the Department of Transportation shall develop a statewide annual~~  
32 ~~maintenance program for the State primary and urban systems which shall be subject to~~  
33 ~~the approval of the Board of Transportation and shall take into consideration the general~~  
34 ~~maintenance needs, the special maintenance needs and vehicular traffic and other factors~~  
35 ~~deemed pertinent. The Department of Transportation, from time to time, shall restudy the~~  
36 ~~costs and criteria used as a basis for its annual maintenance program. Copies of the~~  
37 ~~annual maintenance program shall be made available to any member of the General~~  
38 ~~Assembly upon request. Each division engineer, at the end of the fiscal year, shall certify~~  
39 ~~the maintenance of highways in his division in accordance with the annual work program,~~  
40 ~~along with the explanations of any deviations.~~

41 In each even-numbered year, the Department of Transportation shall survey the  
42 condition of the State highway system and shall prepare a report of the findings of the

1 survey. The report shall provide both quantitative and qualitative descriptions of the  
2 condition of the system and shall provide estimates of the following:

- 3           (1)       The annual cost of routine maintenance of the State highway system;  
4           (2)       The cost of eliminating any maintenance backlog by categories of  
5                   maintenance requirements;  
6           (3)       The annual cost to resurface the State highway system based upon a  
7                   12-year repaving cycle for the primary system and a 15-year cycle  
8                   for other highways; and  
9           (4)       The cost of eliminating any resurfacing backlog, by type of system.

10       On the basis of the report, the Department of Transportation shall develop a statewide  
11 annual maintenance program for the State highway system, which shall be subject to the  
12 approval of the Board of Transportation and shall take into consideration the general  
13 maintenance needs, special maintenance needs, vehicular traffic, and other factors  
14 deemed pertinent.

15       Each division engineer, at the end of the fiscal year, shall certify the maintenance of  
16 highways in his division in accordance with the annual work program, along with an  
17 explanation for any deviations.

18       The report on the condition of the State highway system and the annual maintenance  
19 program shall be presented to the Joint Legislative Transportation Oversight Committee  
20 by November 30 of each even-numbered year, and copies shall be made available to any  
21 member of the General Assembly upon request."

22  
23 Requested by: Senator Jordan

#### 24 **GRADUATED DRIVERS LICENSE PROGRAM**

25       Section 29.20. Section 11 of S.L. 1997-16 reads as rewritten:

26       "Section 11. This act becomes effective December 1, 1997, if the General Assembly  
27 appropriates the necessary funds from the Highway Fund to the Department of  
28 Transportation, Division of Motor Vehicles, to administer the provisional license  
29 program. 1997. Sections 1 through 7 of this act do not apply to any person who holds a  
30 valid North Carolina limited learner's permit issued before the effective date of this act,  
31 who holds a valid North Carolina learner's permit issued before the effective date of this  
32 act, or who is a provisional licensee and holds a valid North Carolina drivers license  
33 issued before the effective date of this act."

34  
35 Requested by: Senators Odom, Perdue, Plyler

#### 36 **OREGON INLET STABILIZATION PROJECT**

37       Section 29.21. (a)       The General Assembly finds that:

- 38           (1)       Whereas, an emergency situation exists at Oregon Inlet due to the  
39                   steady and uncontrolled natural closing of the inlet from its north  
40                   side which cannot be halted by dredging and which prevents the  
41                   maintenance of a stable channel through the inlet to meet in a  
42                   satisfactory manner the navigation needs of the State of North  
43                   Carolina and its citizens; and

- 1 (2) Whereas, the stability of Oregon Inlet at its current water flow  
2 capacity is necessary to provide a source of ocean water into the  
3 sounds of North Carolina and to discharge waters from the sounds  
4 and to prevent unacceptable changes in the ecology and economy of  
5 eastern North Carolina; and
- 6 (3) Whereas, the closing of Oregon Inlet would result in adverse and  
7 irreversible impacts on the fisheries habitat in the sounds of  
8 northeastern North Carolina through the disruption of the only  
9 source of ocean and sound water interchange for a sound distance of  
10 over 100 miles between the Virginia-North Carolina boundary and  
11 Hatteras Inlet; and
- 12 (4) Whereas, the loss of the inlet through the Outer Banks would cause a  
13 change in the salinity of the sounds and jeopardize extremely  
14 valuable coastal fisheries resources such as the shrimp fishery and  
15 have numerous other adverse impacts on the fisheries resources of  
16 the sounds in northeastern North Carolina; and
- 17 (5) Whereas, the navigation channel through Oregon Inlet provides a  
18 vital link between the ocean fisheries and the fishing fleets docked in  
19 northeastern North Carolina that has not been maintained on a  
20 consistent or satisfactory basis for many years with substantial  
21 resulting harm to the economy of northeastern North Carolina; and
- 22 (6) Whereas, the Cape Hatteras National Seashore was created and  
23 established by the donation of a substantial portion of the lands by  
24 the State of North Carolina to the United States of America in a deed  
25 dated 7 August 1958, including the lands on the north side of Oregon  
26 Inlet; and
- 27 (7) Whereas, the Cape Hatteras National Seashore is a national treasure  
28 which has been made accessible to its millions of visitors annually  
29 only as a consequence of the construction and maintenance of the  
30 Bonner Bridge over Oregon Inlet and North Carolina Highway 12 by  
31 the State of North Carolina; and
- 32 (8) Whereas, the loss of the hydraulic capacity of Oregon Inlet to release  
33 storm waters during hurricanes and northeasters would result over  
34 time in the creation by the forces of nature of one or more inlets  
35 through the Outer Banks in the area north of Hatteras Inlet; and
- 36 (9) Whereas, each new inlet would cut through North Carolina Highway  
37 158 and the towns north of Oregon Inlet with devastating impacts  
38 and/or North Carolina Highway 12, the sole source of vehicular  
39 access to the Cape Hatteras National Seashore and the villages of  
40 Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, and Hatteras; would  
41 greatly increase the costs of maintaining motor vehicle access to the  
42 National Seashore and the villages; would greatly increase the public  
43 health dangers to the visitors to the National Seashore and the



- 1 residents of the villages by limited access to medical care; and would  
2 have a devastating impact on the economy of those villages; and
- 3 (10) Whereas, the visitors to the Cape Hatteras National Seashore provide  
4 an important and critical stimulus to the economy of Dare County  
5 and other parts of northeastern North Carolina which economic  
6 benefits will be so substantially reduced should Highway 12 be  
7 closed that the region will suffer irreversible economic harm; and
- 8 (11) Whereas, the North Carolina Department of Transportation must  
9 start construction of a replacement for the Bonner Bridge across  
10 Oregon Inlet in the near future to maintain a continuous corridor for  
11 vehicular access to the National Seashore and the villages; and
- 12 (12) Whereas, the new bridge across Oregon Inlet is to be built at a cost  
13 estimated to be more than one hundred million dollars  
14 (\$100,000,000) and is to be designed to span the inlet in its present  
15 location for 50 years; and
- 16 (13) Whereas, the State of North Carolina's several interests will be  
17 served by the stabilization of Oregon Inlet in its present location by  
18 the construction of a stabilization project on the north side of the  
19 inlet; and
- 20 (14) Whereas, the State of North Carolina made an express reservation in  
21 the deed by which it conveyed the lands on the north side of Oregon  
22 Inlet to the United States in 1958 which allowed the State of North  
23 Carolina to condemn those lands as the State of North Carolina  
24 deemed necessary to lay out and establish the highways built over  
25 those lands, and the parties to that deed intended by the reservation  
26 that the State of North Carolina could condemn lands needed to  
27 protect the highways against erosion or other natural threats to  
28 maintaining a vehicle transportation link between the villages and  
29 the mainland; and
- 30 (15) Whereas, the General Assembly finds that certain of those lands  
31 conveyed to and owned by the United States as a result of the 1958  
32 deed issued by the State of North Carolina are needed to construct  
33 the inlet stabilization structure on the north side of Oregon Inlet; and
- 34 (16) Whereas, the United States Department of Interior, as the owner of  
35 the lands needed to build a structure to stabilize the north shore of  
36 the inlet and prevent its eventual closing, refuses to make the lands  
37 available for this purpose to either State or federal agencies; Now,  
38 therefore,

39 This section may be referred to as the "Oregon Inlet Stabilization Act of 1997".

40 (b) The North Carolina Department of Transportation may, on behalf of the State  
41 of North Carolina, institute condemnation proceedings, pursuant to Chapter 136 of the  
42 General Statutes, for any lands conveyed by or as a result of the 7 August 1958 deed,  
43 conveying lands pursuant to the authority of Chapter 257 of the Public Laws of North

1 Carolina 1939 from the State of North Carolina to the United States of America, that the  
2 Department of Transportation determines necessary for the construction and subsequent  
3 maintenance of inlet stabilization structures now existing or to be built, to stabilize and  
4 protect Oregon Inlet and its navigation channel to the depth required for continuous use  
5 by the commercial fishing fleets of North Carolina and other vessels requiring similar  
6 water depths. The North Carolina Department of Transportation may, further, condemn  
7 and acquire from the United States any additional lands adjoining the lands owned by the  
8 United States of America at or near Oregon Inlet which are created by avulsion or  
9 accretion after the effective date of this act to the extent that those lands, owned by the  
10 United States of America, are required for the construction or maintenance of the inlet  
11 stabilization structures now existing or to be built at Oregon Inlet.

12 (c) The North Carolina Department of Transportation shall design and construct a  
13 terminal groin on the north side of Oregon Inlet to protect Oregon Inlet against closing, to  
14 maintain at least the current level of water exchange between the Atlantic Ocean and the  
15 sounds, and to maintain the inlet's navigational channel to the depth required for  
16 continuous use by the commercial fishing fleets of North Carolina and other vessels  
17 requiring similar water depths. The Department of Administration and the Department of  
18 Environment, Health, and Natural Resources shall lend their assistance to the Department  
19 of Transportation in the design, construction, and permitting of the north terminal groin  
20 deemed appropriate and necessary to stabilize Oregon Inlet in its present location and its  
21 navigational channel to the depth required for continuous use by the commercial fishing  
22 fleets of North Carolina and other vessels requiring similar water depths.

23 (d) The agencies assigned to the North Carolina Department of Environment,  
24 Health, and Natural Resources, including the Coastal Resources Commission, shall issue  
25 permits to construct the inlet stabilization structures, including a terminal groin on the  
26 north side of Oregon Inlet, and may condition those permits so as to protect coastal  
27 resources, but shall not condition or limit the authority to build the structures in a manner  
28 which interferes with the construction or maintenance of its channel to the depth required  
29 for continuous use by the commercial fishing fleets of North Carolina and other vessels  
30 requiring similar water depths. Notwithstanding any contrary provisions in the Coastal  
31 Area Management Act, the Dredge and Fill statute, the North Carolina Environmental  
32 Policy Act, the Administrative Procedure Act, G.S. 1-269, or any other provision of the  
33 General Statutes, no administrative agency or court of this State shall hear, consider, or  
34 determine any challenge, whether brought as a contested case or cause of action in the  
35 courts, to any action or decision leading to the issuance of a permit and to the permit  
36 issued pursuant to the Coastal Area Management Act in Article 7 of Chapter 113A and  
37 the Dredge and Fill statute in G.S. 113-229 except for a challenge brought by the North  
38 Carolina Department of Transportation to the reasonableness of the conditions imposed  
39 in any permits by the Coastal Resources Commission or its designee.

40 (e) The North Carolina Department of Transportation may contract with, or  
41 otherwise enter into appropriate arrangements, with the United States Corps of Engineers  
42 or with private entities, for assistance in the design, permitting, and construction of a  
43 terminal groin on the north side of Oregon Inlet.

(f) The Governor and any State agency charged with duties under this section may call upon any of the public institutions of higher education of this State for assistance in the implementation of this section, including without limitation, any of the units of The University of North Carolina.

(g) From funds appropriated to the Department of Transportation in this act, up to four hundred thousand dollars (\$400,000) may be used for the implementation of this section.

### PART XXX. SALARIES AND BENEFITS

Requested by: Senators Plyler, Perdue, Odom

#### GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

Section 30. (a) Effective July 1, 1997, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred three thousand twelve dollars (\$103,012)~~ one hundred six thousand one hundred two dollars (\$106,102) annually, payable monthly."

(b) The annual salaries for the members of the Council of State, payable monthly, for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Council</u>	<u>of</u>	<u>State</u>
<u>Annual Salary</u>		
Lieutenant Governor		\$93,642
Attorney General		93,642
Secretary of State		93,642
State Treasurer		93,642
State Auditor		93,642
Superintendent of Public Instruction		93,642
Agriculture Commissioner		93,642
Insurance Commissioner		93,642
Labor Commissioner		93,642.

Requested by: Senators Plyler, Perdue, Odom

#### NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 30.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$91,490
Secretary of Correction	91,490
Secretary of Cultural Resources	91,490

1	Secretary of Commerce	91,490
2	Secretary of Environment, Health,	
3	and Natural Resources	91,490
4	Secretary of Human Resources	91,490
5	Secretary of Revenue	91,490
6	Secretary of Transportation	91,490
7	Secretary of Crime Control and Public Safety	91,490.

8  
9 Requested by: Senators Plyler, Perdue, Odom

10 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

11 Section 30.2. The annual salaries, payable monthly, for the 1997-98 and 1998-  
12 99 fiscal years, beginning July 1, 1997, for the following executive branch officials are:

14	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
15		
16	Chairman, Alcoholic Beverage Control	
17	Commission	\$83,271
18	State Controller	116,537
19	Commissioner of Motor Vehicles	83,271
20	Commissioner of Banks	85,326
21	State Personnel Director	91,490
22	Chairman, Parole Commission	76,037
23	Members of the Parole Commission	70,200
24	Executive Director, Agency for Public	
25	Telecommunications	70,200
26	General Manager, Ports Railway Commission	63,389
27	Director, Museum of Art	85,326
28	Executive Director, Wildlife Resources Commission	71,871
29	Executive Director, North Carolina Housing	
30	Finance Agency	103,057
31	Executive Director, North Carolina Agricultural	
32	Finance Authority	81,052
33	Director, Office of Administrative Hearings	82,341

34  
35 Requested by: Senators Plyler, Perdue, Odom, Rand

36 **DEPARTMENT OF HUMAN RESOURCES SECRETARY SALARY**  
37 **FLEXIBILITY**

38 Section. 30.3. (a) G.S. 143B-9 reads as rewritten:

39 **"§ 143B-9. Appointment of officers and employees.**

40 The head of each principal State department, except those departments headed by  
41 popularly elected officers, shall be appointed by the Governor and serve at his pleasure.

42 The salary of the head of each of the principal State departments and of elected  
43 officials shall be ~~as provided by law~~ set by the General Assembly; provided, however, if

1 the Secretary of the Department of Human Resources is a licensed physician, the  
2 Governor may, after consultation with the Advisory Budget Commission, set the salary of  
3 the Secretary at a level comparable to that of physicians employed by the Department of  
4 Human Resources.

5 The head of a principal State department shall appoint a chief deputy or chief  
6 assistant, and such chief deputy or chief assistant shall not be subject to the State  
7 Personnel Act. The salary of such chief deputy or chief assistant shall, upon the  
8 recommendation of the Governor, be set by the General Assembly. Unless otherwise  
9 provided for in the Executive Organization Act of 1973, and subject to the provisions of  
10 the Personnel Act, the head of each principal State department shall designate the  
11 administrative head of each transferred agency and all employees of each division,  
12 section, or other unit of the principal State department."

13 (b) This section is effective when it becomes law.  
14

15 Requested by: Senators Plyler, Perdue, Odom, Rand

#### 16 **SALARIES OF MEMBERS AND CHAIR OF THE INDUSTRIAL COMMISSION**

17 Section 30.4. G.S. 97-78(a) reads as rewritten:

18 "~~(a) The salaries of the chairman and each of the other commissioners shall be~~  
19 ~~fixed by the General Assembly in the Current Operations Appropriations Act. The salary~~  
20 ~~of each commissioner shall be the same as that fixed from time to time for district~~  
21 ~~attorneys except that the commissioner designated as chair shall receive one thousand~~  
22 ~~five hundred dollars (\$1,500) additional per annum."~~

23  
24 Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt, Conder, Horton

#### 25 **DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES** 26 **LAW ENFORCEMENT SALARIES EQUALIZED**

27 Section 30.5. The Department of Environment, Health, and Natural Resources  
28 shall adjust the average salary of law enforcement officers in the Division of Parks and  
29 Recreation from twenty-five thousand eight hundred nine dollars (\$25,809) to thirty  
30 thousand ninety-seven dollars (\$30,097), the average salary of law enforcement officers  
31 in the Division of Marine Fisheries and Wildlife Resources Commission.  
32

33 Requested by: Senators Plyler, Perdue, Odom

#### 34 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES** 35 **COMMISSION SALARY INCREASES**

36 Section 30.6. For the 1997-98 and 1998-99 fiscal years, the Secretary of  
37 Revenue shall transfer at the end of each quarter from the State sales and use tax net  
38 collections received by the Department of Revenue under Article 5 of Chapter 105 of the  
39 General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost  
40 of any legislative salary increase for employees of the Wildlife Resources Commission.  
41

42 Requested by: Senators Plyler, Perdue, Odom

#### 43 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

1 Section 30.7. (a) The annual salaries, payable monthly, for specified judicial branch  
 2 officials for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
3	
4	
5	
6 Chief Justice, Supreme Court	\$106,102
7 Associate Justice, Supreme Court	103,330
8 Chief Judge, Court of Appeals	100,746
9 Judge, Court of Appeals	99,024
10 Judge, Senior Regular Resident Superior Court	96,334
11 Judge, Superior Court	93,642
12 Chief Judge, District Court	85,032
13 Judge, District Court	82,341
14 District Attorney	86,754
15 Administrative Officer of the Courts	96,334
16 Assistant Administrative Officer of the Courts	80,898
17 Public Defender	86,754
18	

19 (b) The district attorney or public defender of a judicial district, with the approval  
 20 of the Administrative Officer of the Courts, shall set the salaries of assistant district  
 21 attorneys or assistant public defenders, respectively, in that district such that the average  
 22 salaries of assistant district attorneys or assistant public defenders in that district do not  
 23 exceed fifty-three thousand three hundred sixty-five dollars (\$53,365) and the minimum  
 24 salary of any assistant district attorney or assistant public defender is at least twenty-  
 25 seven thousand two hundred forty-five dollars (\$27,245), effective July 1, 1997.

26 (c) The salaries in effect for the 1996-97 fiscal year on June 30, 1997, for  
 27 permanent, full-time employees of the Judicial Department, except for those whose  
 28 salaries are itemized in this Part, shall be increased by three percent (3%), commencing  
 29 July 1, 1997.

30 (d) The salaries in effect on June 30, 1997, for all permanent, part-time employees  
 31 of the Judicial Department shall be increased on and after July 1, 1997, by pro rata  
 32 amounts of the three percent (3%).

33  
 34 Requested by: Senators Plyler, Perdue, Odom

35 **CLERKS OF SUPERIOR COURT/SALARY INCREASES**

36 Section 30.8. Effective July 1, 1997, G.S. 7A-101(a) reads as rewritten:

37 "(a) The clerk of superior court is a full-time employee of the State and shall  
 38 receive an annual salary, payable in equal monthly installments, based on the population  
 39 of the county as determined in subsection (a1) of this section, according to the following  
 40 schedule:

Population	Annual Salary
41 Less than 100,000	<del>\$60,265</del> <u>\$62,073</u>
42 100,000 to 149,999	<del>67,695</del> <u>69,726</u>
43	

1	150,000 to 249,999	<del>75,125</del> <u>77,379</u>
2	250,000 and above	<del>82,555</del> <u>85,032</u>

3 The salary schedule in this subsection is intended to represent the following  
4 percentage of the salary of a chief district court judge:

5	Less than 100,000	73%
6	100,000 to 149,999	82%
7	150,000 to 249,999	91%
8	250,000 and above	100%.

9 When a county changes from one population group to another, the salary of the clerk  
10 shall be changed, on July 1 of the fiscal year for which the change is reported, to the  
11 salary appropriate for the new population group, except that the salary of an incumbent  
12 clerk shall not be decreased by any change in population group during his continuance in  
13 office."

14

15 Requested by: Senators Plyler, Perdue, Odom

#### 16 GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

17 Section 30.9. Effective July 1, 1997, G.S. 120-37(c) reads as rewritten:

18 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be  
19 entitled to other benefits available to permanent legislative employees and shall be paid  
20 an annual salary of ~~fifty seven thousand five hundred fifty nine dollars (\$57,559)~~ fifty  
21 nine thousand two hundred eighty-six dollars (\$59,286) payable monthly. The  
22 Legislative Services Commission shall review the salary of the principal clerks prior to  
23 submission of the proposed operating budget of the General Assembly to the Governor  
24 and Advisory Budget Commission and shall make appropriate recommendations for  
25 changes in those salaries. Any changes enacted by the General Assembly shall be by  
26 amendment to this paragraph."

27

28 Requested by: Senators Plyler, Perdue, Odom

#### 29 SERGEANT-AT-ARMS AND READING CLERKS

30 Section 30.10. Effective July 1, 1997, G.S. 120-37(b) reads as rewritten:

31 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary  
32 of ~~two hundred forty eight dollars (\$248.00) per week~~ two hundred fifty-five dollars  
33 (\$255.00) per week plus subsistence at the same daily rate provided for members of the  
34 General Assembly, plus mileage at the rate provided for members of the General  
35 Assembly for one round trip only from their homes to Raleigh and return. The sergeants-  
36 at-arms shall serve during sessions of the General Assembly and at such time prior to the  
37 convening of, and subsequent to adjournment or recess of, sessions as may be authorized  
38 by the Legislative Services Commission. The reading clerks shall serve during sessions  
39 only."

40

41 Requested by: Senators Plyler, Perdue, Odom

#### 42 LEGISLATIVE EMPLOYEES/SALARY INCREASES

1 Section 30.11. The Legislative Administrative Officer shall increase the  
2 salaries of nonelected employees of the General Assembly in effect for fiscal year 1997-  
3 98 by three percent (3%). Nothing in this act limits any of the provisions of G.S. 120-32.  
4

5 Requested by: Senators Plyler, Perdue, Odom

6 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

7 Section 30.12. The Director of the Budget shall transfer from the Reserve for  
8 Salary Increases created in this act for fiscal year 1997-98 funds to the Department of  
9 Community Colleges necessary to provide an average annual salary increase of three  
10 percent (3%), including funds for the employer's retirement and social security  
11 contributions, commencing July 1, 1997, for all permanent full-time community college  
12 institutional personnel supported by State funds. The State Board of Community  
13 Colleges shall establish guidelines for providing their salary increases to community  
14 college institutional personnel to include consideration of increases based on  
15 performance. Salary funds shall be used to provide an average annual salary increase of  
16 three percent (3%) to all full-time employees and part-time employees on a pro rata basis.  
17

18 Requested by: Senators Plyler, Perdue, Odom

19 **UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES**

20 Section 30.13. (a) The Director of the Budget shall transfer to the Board of  
21 Governors of The University of North Carolina sufficient funds from the Reserve for  
22 Salary Increases created in this act for fiscal year 1997-98 to provide an annual average  
23 salary increase of three percent (3%), including funds for the employer's retirement and  
24 social security contributions, commencing July 1, 1997, for all employees of The  
25 University of North Carolina, as well as employees other than teachers of the North  
26 Carolina School of Science and Mathematics, supported by State funds and whose  
27 salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated  
28 to individuals according to the rules adopted by the Board of Governors, or the Board of  
29 Trustees of the North Carolina School of Science and Mathematics, as appropriate, and  
30 shall not be used for any purpose other than for salary increases and necessary employer  
31 contributions provided by this section. The Board of Governors shall include  
32 consideration of increases based on performance in its adoption of rules for the allocation  
33 of funds for salary increases.

34 (b) The Director of the Budget shall transfer to the Board of Governors of The  
35 University of North Carolina sufficient funds from the Reserve for Salary Increases  
36 created in this act for fiscal year 1997-98 to provide an annual average salary increase  
37 comparable to that provided in this act for public school teachers, including funds for the  
38 employer's retirement and social security contributions, commencing July 1, 1997, for all  
39 teaching employees of the North Carolina School of Science and Mathematics, supported  
40 by State funds and whose salaries are exempt from the State Personnel Act (EPA). These  
41 funds shall be allocated to individuals according to the rules adopted by the Board of  
42 Trustees of the North Carolina School of Science and Mathematics and shall not be used



1 for any purpose other than for salary increases and necessary employer contributions  
2 provided by this section.

3  
4 Requested by: Senators Plyler, Perdue, Odom

5 **MOST STATE EMPLOYEES/SALARY INCREASES**

6 Section 30.14. (a) The salaries in effect June 30, 1997, of all permanent full-  
7 time State employees whose salaries are set in accordance with the State Personnel Act,  
8 and who are paid from the General Fund or the Highway Fund shall be increased, on or  
9 after July 1, 1997, unless otherwise provided by this act, by three percent (3%).

10 (b) Except as otherwise provided in this act, salaries in effect June 30, 1997, for  
11 permanent full-time State officials and persons in exempt positions that are recommended  
12 by the Governor or the Governor and the Advisory Budget Commission and set by the  
13 General Assembly shall be increased by three percent (3%), commencing July 1, 1997.

14 (c) The salaries in effect June 30, 1997, for all permanent part-time State  
15 employees shall be increased on and after July 1, 1997, by pro rata amounts of the salary  
16 increases provided for permanent full-time employees covered under subsection (a) of  
17 this section.

18 (d) The Director of the Budget may allocate out of special operating funds or from  
19 other sources of the employing agency, except tax revenues, sufficient funds to allow a  
20 salary increase on and after July 1, 1997, in accordance with subsections (a), (b), or (c) of  
21 this section, including funds for the employer's retirement and social security  
22 contributions, of the permanent full-time and part-time employees of the agency.

23 (e) Within regular Executive Budget Act procedures as limited by this act, all  
24 State agencies and departments may increase on an equitable basis the rate of pay of  
25 temporary and permanent hourly State employees, subject to availability of funds in the  
26 particular agency or department, by pro rata amounts the salary increase provided for  
27 permanent full-time employees covered by the provisions of subsection (a) of this  
28 section, commencing July 1, 1997.

29 (f) Except as provided by subsection (a) of this section, no person may receive  
30 a salary increase under G.S. 126-7 during the 1997-98 fiscal year, and no State employee  
31 or officer shall receive a merit increment during the 1997-98 fiscal year except as  
32 otherwise provided by this act.

33 (g) The provisions of this section shall not apply to State employees whose  
34 salaries are determined by G.S. 7A-102 or G.S. 7A-171.1. Those employees who would  
35 not receive a salary increase under G.S. 7A-102 or G.S. 7A-171.1, because they are at  
36 the top of their salary range, shall receive a bonus in the amount of three percent (3%).

37  
38 Requested by: Senators Plyler, Perdue, Odom

39 **ALL STATE-SUPPORTED PERSONNEL**

40 Section 30.15. (a) Salaries and related benefits for positions that are funded  
41 partially from the General Fund or Highway Fund and partially from sources other than  
42 the General Fund or Highway Fund shall be increased from the General Fund or Highway

1 Fund appropriation only to the extent of the proportionate part of the salaries paid from  
2 the General Fund or Highway Fund.

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

6 (c) The salary increases provided in this Part are to be effective July 1, 1997, do  
7 not apply to persons separated from State service due to resignation, dismissal, reduction  
8 in force, death, or retirement, whose last workday is prior to July 1, 1997, or to  
9 employees involved in final written disciplinary procedures. The employee shall receive  
10 the increase on a current basis when the final written disciplinary procedure is resolved.

11 Payroll checks issued to employees after July 1, 1997, which represent  
12 payment of services provided prior to July 1, 1997, shall not be eligible for salary  
13 increases provided for in this act. This subsection shall apply to all employees, subject to  
14 or exempt from the State Personnel Act, paid from State funds, including public schools,  
15 community colleges, and The University of North Carolina.

16 (d) The Director of the Budget shall transfer from the Reserve for Salary Increases  
17 in this act for fiscal year 1997-98 all funds necessary for the salary increases provided by  
18 this act, including funds for the employer's retirement and social security contributions.

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

21  
22 Requested by: Senators Plyler, Perdue, Odom

### 23 SALARY ADJUSTMENT FUND

24 Section 30.16. Any remaining appropriations for legislative salary increases  
25 not required for that purpose may be used to supplement the Salary Adjustment Fund.  
26 These funds shall first be used to provide reclassifications of those positions already  
27 approved by the Office of State Personnel. The Office of State Budget and Management  
28 shall report to the Joint Legislative Commission on Governmental Operations prior to the  
29 allocation of these funds.

30  
31 Requested by: Senators Plyler, Perdue, Odom, Jenkins

### 32 1997 RETIREMENT BENEFITS ACT

33 Section 30.17. (a) G.S. 135-5(b16) reads as rewritten:

34 "(b16) Service Retirement Allowance of Members Retiring on or After July 1,  
35 ~~1995-1995, but Before July 1, 1997.~~ – Upon retirement from service in accordance with  
36 subsection (a) or (a1) above, on or after July 1, 1995, but before July 1, 1997, a member  
37 shall receive the following service retirement allowance:

38 (1) A member who is a law enforcement officer or an eligible former law  
39 enforcement officer shall receive a service retirement allowance  
40 computed as follows:

41 a. If the member's service retirement date occurs on or after his  
42 55th birthday, and completion of five years of creditable service  
43 as a law enforcement officer, or after the completion of 30 years

1 of creditable service, the allowance shall be equal to one and  
2 seventy-five hundredths percent (1.75%) of his average final  
3 compensation, multiplied by the number of years of his  
4 creditable service.

5 b. If the member's service retirement date occurs on or after his  
6 50th birthday and before his 55th birthday with 15 or more years  
7 of creditable service as a law enforcement officer and prior to the  
8 completion of 30 years of creditable service, his retirement  
9 allowance shall be equal to the greater of:

10 1. The service retirement allowance payable under G.S. 135-  
11 5(b16)(1)a. reduced by one-third of one percent ( $\frac{1}{3}$  of  
12 1%) thereof for each month by which his retirement date  
13 precedes the first day of the month coincident with or next  
14 following the month the member would have attained his  
15 55th birthday; or

16 2. The service retirement allowance as computed under G.S.  
17 135-5(b16)(1)a. reduced by five percent (5%) times the  
18 difference between 30 years and his creditable service at  
19 retirement.

20 (2) A member who is not a law enforcement officer or an eligible former  
21 law enforcement officer shall receive a service retirement allowance  
22 computed as follows:

23 a. If the member's service retirement date occurs on or after his  
24 65th birthday upon the completion of five years of creditable  
25 service or after the completion of 30 years of creditable service  
26 or on or after his 60th birthday upon the completion of 25 years  
27 of creditable service, the allowance shall be equal to one and  
28 seventy-five hundredths percent (1.75%) of his average final  
29 compensation, multiplied by the number of years of creditable  
30 service.

31 b. If the member's service retirement date occurs after his 60th and  
32 before his 65th birthday and prior to his completion of 25 years  
33 or more of creditable service, his retirement allowance shall be  
34 computed as in G.S. 135-5(b16)(2)a. but shall be reduced by one-  
35 quarter of one percent ( $\frac{1}{4}$  of 1%) thereof for each month by  
36 which his retirement date precedes the first day of the month  
37 coincident with or next following his 65th birthday.

38 c. If the member's early service retirement date occurs on or after  
39 his 50th birthday and before his 60th birthday and after  
40 completion of 20 years of creditable service but prior to the  
41 completion of 30 years of creditable service, his early service  
42 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance as computed under G.S.  
2 135-5(b16)(2)a. but reduced by the sum of five-twelfths of  
3 one percent ( $5/12$  of 1%) thereof for each month by which  
4 his retirement date precedes the first day of the month  
5 coincident with or next following the month the member  
6 would have attained his 60th birthday, plus one-quarter of  
7 one percent ( $1/4$  of 1%) thereof for each month by which  
8 his 60th birthday precedes the first day of the month  
9 coincident with or next following his 65th birthday; or
  - 10 2. The service retirement allowance as computed under G.S.  
11 135-5(b16)(2)a. reduced by five percent (5%) times the  
12 difference between 30 years and his creditable service at  
13 retirement; or
  - 14 3. If the member's creditable service commenced prior to  
15 July 1, 1994, the service retirement allowance equal to the  
16 actuarial equivalent of the allowance payable at the age of  
17 60 years as computed in G.S. 135-5(b16)(2)b.
  - 18 d. Notwithstanding the foregoing provisions, any member whose  
19 creditable service commenced prior to July 1, 1963, shall not  
20 receive less than the benefit provided by G.S. 135-5(b)."
- 21 (b) G.S. 135-5 is amended by adding a new subsection to read:
- 22 "(b17) Service Retirement Allowance of Members Retiring on or After July 1,  
23 1997. – Upon retirement from service in accordance with subsection (a) or (a1) above, on  
24 or after July 1, 1997, a member shall receive the following service retirement allowance:
- 25 (1) A member who is a law enforcement officer or an eligible former law  
26 enforcement officer shall receive a service retirement allowance  
27 computed as follows:
    - 28 a. If the member's service retirement date occurs on or after his  
29 55th birthday, and completion of five years of creditable service  
30 as a law enforcement officer, or after the completion of 30 years  
31 of creditable service, the allowance shall be equal to one and  
32 eighty-one hundredths percent (1.81%) of his average final  
33 compensation, multiplied by the number of years of his  
34 creditable service.
    - 35 b. If the member's service retirement date occurs on or after his  
36 50th birthday and before his 55th birthday with 15 or more years  
37 of creditable service as a law enforcement officer and prior to the  
38 completion of 30 years of creditable service, his retirement  
39 allowance shall be equal to the greater of:
      - 40 1. The service retirement allowance payable under G.S. 135-  
41 5(b17)(1)a. reduced by one-third of one percent ( $1/3$  of  
42 1%) thereof for each month by which his retirement date  
43 precedes the first day of the month coincident with or next

- 1 following the month the member would have attained his  
2 55th birthday; or
- 3 2. The service retirement allowance as computed under G.S.  
4 135-5(b17)(1)a. reduced by five percent (5%) times the  
5 difference between 30 years and his creditable service at  
6 retirement.
- 7 (2) A member who is not a law enforcement officer or an eligible former  
8 law enforcement officer shall receive a service retirement allowance  
9 computed as follows:
- 10 a. If the member's service retirement date occurs on or after his  
11 65th birthday upon the completion of five years of membership  
12 service or after the completion of 30 years of creditable service  
13 or on or after his 60th birthday upon the completion of 25 years  
14 of creditable service, the allowance shall be equal to one and  
15 eighty-one hundredths percent (1.81%) of his average final  
16 compensation, multiplied by the number of years of creditable  
17 service.
- 18 b. If the member's service retirement date occurs after his 60th and  
19 before his 65th birthday and prior to his completion of 25 years  
20 or more of creditable service, his retirement allowance shall be  
21 computed as in G.S. 135-5(b17)(2)a. but shall be reduced by one-  
22 quarter of one percent (1/4 of 1%) thereof for each month by  
23 which his retirement date precedes the first day of the month  
24 coincident with or next following his 65th birthday.
- 25 c. If the member's early service retirement date occurs on or after  
26 his 50th birthday and before his 60th birthday and after  
27 completion of 20 years of creditable service but prior to the  
28 completion of 30 years of creditable service, his early service  
29 retirement allowance shall be equal to the greater of:
- 30 1. The service retirement allowance as computed under G.S.  
31 135-5(b17)(2)a. but reduced by the sum of five-twelfths of  
32 one percent (5/12 of 1%) thereof for each month by which  
33 his retirement date precedes the first day of the month  
34 coincident with or next following the month the member  
35 would have attained his 60th birthday, plus one-quarter of  
36 one percent (1/4 of 1%) thereof for each month by which  
37 his 60th birthday precedes the first day of the month  
38 coincident with or next following his 65th birthday; or
- 39 2. The service retirement allowance as computed under G.S.  
40 135-5(b17)(2)a. reduced by five percent (5%) times the  
41 difference between 30 years and his creditable service at  
42 retirement; or

1                   3.     If the member's creditable service commenced prior to  
2                   July 1, 1994, the service retirement allowance equal to the  
3                   actuarial equivalent of the allowance payable at the age of  
4                   60 years as computed in G.S. 135-5(b17)(2)b.

5                   d.     Notwithstanding the foregoing provisions, any member whose  
6                   creditable service commenced prior to July 1, 1963, shall not  
7                   receive less than the benefit provided by G.S. 135-5(b)."

8           (c)     G.S. 135-5(m) reads as rewritten:

9           "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the  
10           principal beneficiary designated to receive a return of accumulated contributions shall  
11           have the right to elect to receive in lieu thereof the reduced retirement allowance  
12           provided by Option 2 of subsection (g) above computed by assuming that the member  
13           had retired on the first day of the month following the date of his death, provided that the  
14           following conditions apply:

15           (1)     a.     The member had attained such age and/or creditable service to be  
16                   eligible to commence retirement with an early or service retirement  
17                   allowance, or

18                   b.     The member had obtained 20 years of creditable service in which  
19                   case the retirement allowance shall be computed in accordance  
20                   with ~~G.S. 135-5(b16)(1)b.~~ G.S. 135-5(b17)(1)b. or ~~G.S. 135-~~  
21                   ~~5(b16)(2)c.,~~ G.S. 135-5(b17)(2)c., notwithstanding the  
22                   requirement of obtaining age 50.

23           (2)     The member had designated as the principal beneficiary to receive a  
24                   return of his accumulated contributions one and only one person who  
25                   was living at the time of his death.

26           (3)     The member had not instructed the Board of Trustees in writing that he  
27                   did not wish the provisions of this subsection to apply.

28           For the purpose of this benefit, a member is considered to be in service at the date of  
29           his death if his death occurs within 180 days from the last day of his actual service. The  
30           last day of actual service shall be determined as provided in subsection (l) of this  
31           section. Upon the death of a member in service, the surviving spouse may make all  
32           purchases for creditable service as provided for under this Chapter for which the member  
33           had made application in writing prior to the date of death, provided that the date of death  
34           occurred prior to or within 60 days after notification of the cost to make the purchase.  
35           The term "in service" as used in this subsection includes a member in receipt of a benefit  
36           under the Disability Income Plan as provided in Article 6 of this Chapter."

37           (d)     G.S. 135-5 is amended by adding two new subsections to read:

38           "~~(ccc)~~From and after July 1, 1997, the retirement allowance to or on account of  
39           beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased  
40           by three percent (3%) of the allowance payable on June 1, 1997, in accordance with G.S.  
41           135-5(o). Furthermore, from and after July 1, 1997, the retirement allowance to or on  
42           account of beneficiaries whose retirement commenced after July 1, 1996, but before June  
43           30, 1997, shall be increased by a prorated amount of three percent (3%) of the allowance

1 payable as determined by the Board of Trustees based upon the number of months that a  
2 retirement allowance was paid between July 1, 1996, and June 30, 1997.

3 (ddd) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1997. –  
4 From and after July 1, 1997, the retirement allowance to or on account of beneficiaries on  
5 the retirement rolls as of June 1, 1997, shall be increased by three and four-tenths percent  
6 (3.4%) of the allowance payable on June 1, 1997. This allowance shall be calculated on  
7 the allowance payable and in effect on June 30, 1997, so as not to be compounded on any  
8 other increase granted by act of the 1997 General Assembly."

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

10 "(r) From and after July 1, 1997, the retirement allowance to or on account of  
11 beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased  
12 by three percent (3%) of the allowance payable on June 1, 1997. Furthermore, from and  
13 after July 1, 1997, the retirement allowance to or on account of beneficiaries whose  
14 retirement commenced after July 1, 1996, but before June 30, 1997, shall be increased by  
15 a prorated amount of three percent (3%) of the allowance payable as determined by the  
16 Board of Trustees based upon the number of months that a retirement allowance was paid  
17 between July 1, 1996, and June 30, 1997."

18 (f) G.S. 128-27(b15) reads as rewritten:

19 "(b15) Service Retirement Allowance of Members Retiring on or after July 1,  
20 1995-1995, but before July 1, 1997. – Upon retirement from service in accordance with  
21 subsection (a) or (a1) above, on or after July 1, 1995, but before July 1, 1997, a member  
22 shall receive the following service retirement allowance:

23 (1) A member who is a law enforcement officer or an eligible former law  
24 enforcement officer shall receive a service retirement allowance  
25 computed as follows:

26 a. If the member's service retirement date occurs on or after his  
27 55th birthday, and completion of five years of creditable service  
28 as a law enforcement officer, or after the completion of 30 years  
29 of creditable service, the allowance shall be equal to one and  
30 seventy-two hundredths percent (1.72%) of his average final  
31 compensation, multiplied by the number of years of his  
32 creditable service.

33 b. If the member's service retirement date occurs on or after his  
34 50th birthday and before his 55th birthday with 15 or more years  
35 of creditable service as a law enforcement officer and prior to the  
36 completion of 30 years of creditable service, his retirement  
37 allowance shall be equal to the greater of:

38 1. The service retirement allowance payable under G.S. 128-  
39 27(b15)(1)a. reduced by one-third of one percent (1/3 of  
40 1%) thereof for each month by which his retirement date  
41 precedes the first day of the month coincident with or next  
42 following the month the member would have attained his  
43 55th birthday; or

- 1                   2.     The service retirement allowance as computed under G.S.  
2                   128-27(b15)(1)a. reduced by five percent (5%) times the  
3                   difference between 30 years and his creditable service at  
4                   retirement.
- 5           (2)    A member who is not a law enforcement officer or an eligible former  
6           law enforcement officer shall receive a service retirement allowance  
7           computed as follows:
- 8           a.     If the member's service retirement date occurs on or after his  
9           65th birthday upon the completion of five years of creditable  
10           service or after the completion of 30 years of creditable service  
11           or on or after his 60th birthday upon the completion of 25 years  
12           of creditable service, the allowance shall be equal to one and  
13           seventy-two hundredths percent (1.72%) of his average final  
14           compensation, multiplied by the number of years of creditable  
15           service.
- 16           b.     If the member's service retirement date occurs after his 60th and  
17           before his 65th birthday and prior to his completion of 25 years  
18           or more of creditable service, his retirement allowance shall be  
19           computed as in G.S. 128-27(b15)(2)a. but shall be reduced by  
20           one-quarter of one percent (1/4 of 1%) thereof for each month by  
21           which his retirement date precedes the first day of the month  
22           coincident with or next following his 65th birthday.
- 23           c.     If the member's early service retirement date occurs on or after  
24           his 50th birthday and before his 60th birthday and after  
25           completion of 20 years of creditable service but prior to the  
26           completion of 30 years of creditable service, his early service  
27           retirement allowance shall be equal to the greater of:
- 28           1.     The service retirement allowance as computed under G.S.  
29           128-27(b15)(2)a. but reduced by the sum of five-twelfths  
30           of one percent (5/12 of 1%) thereof for each month by  
31           which his retirement date precedes the first day of the  
32           month coincident with or next following the month the  
33           member would have attained his 60th birthday, plus one-  
34           quarter of one percent (1/4 of 1%) thereof for each month  
35           by which his 60th birthday precedes the first day of the  
36           month coincident with or next following his 65th birthday;  
37           or
- 38           2.     The service retirement allowance as computed under G.S.  
39           128-27(b15)(2)a. reduced by five percent (5%) times the  
40           difference between 30 years and his creditable service at  
41           retirement; or
- 42           3.     If the member's creditable service commenced prior to  
43           July 1, 1995, the service retirement allowance equal to the



1 actuarial equivalent of the allowance payable at the age of  
2 60 years as computed in G.S. 128-27(b15)(2)b.

- 3 d. Notwithstanding the foregoing provisions, any member whose  
4 creditable service commenced prior to July 1, 1965, shall not  
5 receive less than the benefit provided by G.S. 128-27(b)."

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

7 "(b16) Service Retirement Allowance of Members Retiring on or After July 1,  
8 1997. – Upon retirement from service in accordance with subsection (a) or (a1) above, on  
9 or after July 1, 1997, a member shall receive the following service retirement allowance:

10 (1) A member who is a law enforcement officer or an eligible former law  
11 enforcement officer shall receive a service retirement allowance  
12 computed as follows:

13 a. If the member's service retirement date occurs on or after his  
14 55th birthday, and completion of five years of creditable service  
15 as a law enforcement officer, or after the completion of 30 years  
16 of creditable service, the allowance shall be equal to one and  
17 seventy-six hundredths percent (1.76%) of his average final  
18 compensation, multiplied by the number of years of his  
19 creditable service.

20 b. If the member's service retirement date occurs on or after his  
21 50th birthday and before his 55th birthday with 15 or more years  
22 of creditable service as a law enforcement officer and prior to the  
23 completion of 30 years of creditable service, his retirement  
24 allowance shall be equal to the greater of:

25 1. The service retirement allowance payable under G.S. 128-  
26 27(b16)(1)a. reduced by one-third of one percent (1/3 of  
27 1%) thereof for each month by which his retirement date  
28 precedes the first day of the month coincident with or next  
29 following the month the member would have attained his  
30 55th birthday; or

31 2. The service retirement allowance as computed under G.S.  
32 128-27(b16)(1)a. reduced by five percent (5%) times the  
33 difference between 30 years and his creditable service at  
34 retirement.

35 (2) A member who is not a law enforcement officer or an eligible former  
36 law enforcement officer shall receive a service retirement allowance  
37 computed as follows:

38 a. If the member's service retirement date occurs on or after his  
39 65th birthday upon the completion of five years of creditable  
40 service or after the completion of 30 years of creditable service  
41 or on or after his 60th birthday upon the completion of 25 years  
42 of creditable service, the allowance shall be equal to one and  
43 seventy-six hundredths percent (1.76%) of his average final

- 1           compensation, multiplied by the number of years of creditable  
2           service.
- 3           b. If the member's service retirement date occurs after his 60th  
4           birthday and before his 65th birthday and prior to his completion  
5           of 25 years or more of creditable service, his retirement  
6           allowance shall be computed as in G.S. 128-27(b16)(2)a. but  
7           shall be reduced by one-quarter of one percent (1/4 of 1%)  
8           thereof for each month by which his retirement date precedes the  
9           first day of the month coincident with or next following his 65th  
10           birthday.
- 11           c. If the member's early service retirement date occurs on or after  
12           his 50th birthday and before his 60th birthday and after  
13           completion of 20 years of creditable service but prior to the  
14           completion of 30 years of creditable service, his early service  
15           retirement allowance shall be equal to the greater of:
- 16                   1. The service retirement allowance as computed under G.S.  
17                   128-27(b16)(2)a. but reduced by the sum of five-twelfths  
18                   of one percent (5/12 of 1%) thereof for each month by  
19                   which his retirement date precedes the first day of the  
20                   month coincident with or next following the month the  
21                   member would have attained his 60th birthday, plus one-  
22                   quarter of one percent (1/4 of 1%) thereof for each month  
23                   by which his 60th birthday precedes the first day of the  
24                   month coincident with or next following his 65th birthday;  
25                   or
- 26                   2. The service retirement allowance as computed under G.S.  
27                   128-27(b16)(2)a. reduced by five percent (5%) times the  
28                   difference between 30 years and his creditable service at  
29                   retirement; or
- 30                   3. If the member's creditable service commenced prior to  
31                   July 1, 1995, the service retirement allowance equal to the  
32                   actuarial equivalent of the allowance payable at the age of  
33                   60 years as computed in G.S. 128-27(b16)(2)b.
- 34           d. Notwithstanding the foregoing provisions, any member whose  
35           creditable service commenced prior to July 1, 1965, shall not  
36           receive less than the benefit provided by G.S. 128-27(b)."

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

38           "(ss) From and after July 1, 1997, the retirement allowance to or on account of  
39           beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased  
40           by three percent (3%) of the allowance payable on June 1, 1997, in accordance with G.S.  
41           128-27(k). Furthermore, from and after July 1, 1997, the retirement allowance to or on  
42           account of beneficiaries whose retirement commenced after July 1, 1996, but before June  
43           30, 1997, shall be increased by a prorated amount of three percent (3%) of the allowance

1 payable as determined by the Board of Trustees based upon the number of months that a  
2 retirement allowance was paid between July 1, 1996, and June 30, 1997.

3 (tt) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1997. –  
4 From and after July 1, 1997, the retirement allowance to or on account of beneficiaries on  
5 the retirement rolls as of June 1, 1997, shall be increased by two and three-tenths percent  
6 (2.3 %) of the allowance payable on June 1, 1997. This allowance shall be calculated on  
7 the allowance payable and in effect on June 30, 1997, so as not to be compounded on any  
8 other increase payable under subsection (k) of this section or otherwise granted by act of  
9 the 1997 General Assembly."

10 (i) G.S 128-27(m) reads as rewritten:

11 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the  
12 principal beneficiary designated to receive a return of accumulated contributions shall  
13 have the right to elect to receive in lieu thereof the reduced retirement allowance  
14 provided by Option two of subsection (g) above computed by assuming that the member  
15 had retired on the first day of the month following the date of his death, provided that all  
16 three of the following conditions apply:

- 17 (1) a. The member had attained such age and/or creditable service to be  
18 eligible to commence retirement with an early or service retirement  
19 allowance, or  
20 b. The member had obtained 20 years of creditable service in which  
21 case the retirement allowance shall be computed in accordance  
22 with ~~G.S. 128-27(b15)(1)b.~~ G.S. 128-27(b16)(1)b. or ~~G.S. 128-~~  
23 ~~27(b15)(2)c.,~~ G.S. 128-27(b16)(2)c., notwithstanding the  
24 requirement of obtaining age 50.  
25 (2) The member had designated as the principal beneficiary to receive a  
26 return of his accumulated contributions one and only one person who is  
27 living at the time of his death.  
28 (3) The member had not instructed the Board of Trustees in writing that he  
29 did not wish the provisions of this subsection apply.

30 For the purpose of this benefit, a member is considered to be in service at the date of  
31 his death if his death occurs within 180 days from the last day of his actual service. The  
32 last day of actual service shall be determined as provided in subsection (l) of this  
33 section. Upon the death of a member in service, the surviving spouse may make all  
34 purchases for creditable service as provided for under this Chapter for which the member  
35 had made application in writing prior to the date of death, provided that the date of death  
36 occurred prior to or within 60 days after notification of the cost to make the purchase."  
37

38 Requested by: Senators Plyler, Perdue, Odom, Lee

### 39 SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

40 Section 30.18. (a) Required employer salary-related contributions for employees  
41 whose salaries are paid from department, office, institution, or agency receipts shall be  
42 paid from the same source as the source of the employees' salary. If an employee's salary  
43 is paid in part from the General Fund or Highway Fund and in part from department,

1 office, institution, or agency receipts, required employer salary-related contributions may  
2 be paid from the General Fund or Highway Fund only to the extent of the proportionate  
3 part paid from the General Fund or Highway Fund in support of the salary of the  
4 employee, and the remainder of the employer's requirements shall be paid from the  
5 source that supplies the remainder of the employee's salary. The requirements of this  
6 section as to source of payment are also applicable to payments on behalf of the  
7 employee for hospital-medical benefits, longevity pay, unemployment compensation,  
8 accumulated leave, workers' compensation, severance pay, separation allowances, and  
9 applicable disability income and disability salary continuation benefits.

10 (b) Effective July 1, 1997, the State's employer contribution rates budgeted for  
11 retirement and related benefits as a percentage of covered salaries for the 1997-98 fiscal  
12 year and the 1998-99 fiscal year are (i) ten and eighty-three hundredths percent (10.83%)  
13 - Teachers and State Employees; (ii) fifteen and eighty-three hundredths percent  
14 (15.83%) - State Law Enforcement Officers; (iii) nine and forty hundredths percent  
15 (9.40%) - University Employees' Optional Retirement Program; (iv) twenty-two and  
16 sixty-five hundredths percent (22.65%) - Consolidated Judicial Retirement System; and  
17 (v) twenty-four and fifty-eight hundredths percent (24.58%) - Legislative Retirement  
18 System. Each of the foregoing contribution rates includes two percent (2%) for hospital  
19 and medical benefits. The rate for State Law Enforcement Officers includes five percent  
20 (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State  
21 Employees, State Law Enforcement Officers, and for the University Employees' Optional  
22 Retirement Program include fifty-two hundredths percent (0.52%) for the Disability  
23 Income Plan.

24 (c) The maximum annual employer contributions, payable monthly, by the State  
25 for each covered employee or retiree for the 1997-98 fiscal year and for the 1998-99  
26 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan  
27 are: (i) Medicare-eligible employees and retirees - one thousand three hundred twenty-  
28 one dollars (\$1,321); and (ii) Non-Medicare-eligible employees and retirees - one  
29 thousand seven hundred thirty-six dollars (\$1,736).

30  
31 Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt

32 **INCREASE THE MONTHLY BENEFITS FROM THE NORTH CAROLINA**  
33 **FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

34 Section 30.19. (a) G.S. 58-86-55 reads as rewritten:

35 **"§ 58-86-55. Monthly pensions upon retirement.**

36 Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad  
37 worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30,  
38 and who has attained the age of 55 years is entitled to be paid a monthly pension from  
39 this fund. The monthly pension shall be in the amount of ~~one hundred thirty five dollars~~  
40 ~~(\$135.00)~~ one hundred forty-one dollars (\$141.00) per month. Any retired fireman  
41 receiving a pension of ~~one hundred ten dollars (\$110.00)~~ per month shall, effective July  
42 1, ~~1995, 1997,~~ receive a pension of ~~one hundred thirty five dollars (\$135.00)~~ one hundred  
43 forty-one dollars (\$141.00) per month.

1 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and  
2 G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad member'  
3 shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension  
4 hereunder until the member's official duties as a fireman or rescue squad worker for  
5 which the member is paid compensation shall have been terminated and the member shall  
6 have retired as such according to standards or rules fixed by the board of trustees.

7 A member who is totally and permanently disabled while in the discharge of the  
8 member's official duties as a result of bodily injuries sustained or as a result of extreme  
9 exercise or extreme activity experienced in the course and scope of those official duties  
10 and who leaves the fire or rescue squad service because of this disability shall be entitled  
11 to be paid from the fund a monthly benefit in an amount of ~~one hundred thirty-five~~  
12 ~~dollars (\$135.00)~~ one hundred forty-one dollars (\$141.00) per month beginning the first  
13 month after the member's fifty-fifth birthday. All applications for disability are subject to  
14 the approval of the board who may appoint physicians to examine and evaluate the  
15 disabled member prior to approval of the application, and annually thereafter. Any  
16 disabled member shall not be required to make the monthly payment of ten dollars  
17 (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

18 A member who is totally and permanently disabled for any cause, other than line of  
19 duty, who leaves the fire or rescue squad service because of this disability and who has at  
20 least 10 years of service with the pension fund, may be permitted to continue making a  
21 monthly contribution of ten dollars (\$10.00) to the fund until the member has made  
22 contributions for a total of 240 months. The member shall upon attaining the age of 55  
23 years be entitled to receive a pension as provided by this section. All applications for  
24 disability are subject to the approval of the board who may appoint physicians to examine  
25 and evaluate the disabled member prior to approval of the application and annually  
26 thereafter.

27 A member who, because his residence is annexed by a city under Part 2 or Part 3 of  
28 Article 4 of Chapter 160A of the General Statutes, or whose department is closed because  
29 of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the  
30 General Statutes, and because of such annexation is unable to perform as a fireman of any  
31 status, and if the member has at least 10 years of service with the pension fund, may be  
32 permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund  
33 until the member has made contributions for a total of 240 months. The member upon  
34 attaining the age of 55 years and completion of such contributions shall be entitled to  
35 receive a pension as provided by this section. Any application to make monthly  
36 contributions under this section shall be subject to a finding of eligibility by the Board of  
37 Trustees upon application of the member.

38 The pensions provided shall be in addition to all other pensions or benefits under any  
39 other statutes of the State of North Carolina or the United States, notwithstanding any  
40 exclusionary provisions of other pensions or retirement systems provided by law."

41 (b) It is the intent of the General Assembly to provide cost-of-living increases  
42 to members and retirees of the Firemen's and Rescue Squad Workers' Pension Fund at a

1 rate equal to any cost-of-living increases provided to beneficiaries of the Teachers' and  
2 State Employees' Retirement System, to the extent that funds are available.

3  
4 Requested by: Senators Perdue, Plyler, Odom

5 **RETIREMENT SYSTEM ADMINISTRATIVE EXPENSES TO COMPLY WITH**  
6 **SUPREME COURT DECISIONS**

7 Section 30.20. The Board of Trustees of the Teachers' and State Employees'  
8 Retirement System may expend an aggregate total of not more than five hundred  
9 thousand dollars (\$500,000) for fiscal year 1997-98 and an aggregate total of not more  
10 than two hundred thousand dollars (\$200,000) for fiscal year 1998-99 from assets of the  
11 Teachers' and State Employees' Retirement System and the Local Governmental  
12 Employees Retirement System to meet administrative expenses to comply with Supreme  
13 Court decisions.

14  
15 Requested by: Senators Perdue, Plyler, Odom, Wellons

16 **EXTEND SUNSET ON FICA SAVINGS USE**

17 Section 30.21. (a) Section 14(i) of Chapter 1044 of the 1991 Session Laws, as  
18 amended by Section 42 of Chapter 561 of the 1993 Session Laws and Section 7.28A of  
19 Chapter 769 of the 1993 Session Laws, reads as rewritten:

20 "(i) Subsections (a) through (d) of this section are effective January 1, 1990.  
21 Subsections (e) through (h) of this section are effective January 1, 1991. Subsections (a)  
22 through (h) of this section shall expire ~~December 31, 1997.~~ December 31, 1999."

23 (b) This section is effective when it becomes law.

24  
25 **PART XXXI. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS**

26  
27 **INTRODUCTION**

28 Section 31. The appropriations made by the 1997 General Assembly for  
29 capital improvements are for constructing, repairing, or renovating State buildings,  
30 utilities, and other capital facilities, for acquiring sites for them where necessary, and  
31 acquiring buildings and land for State government purposes.

32  
33 **CAPITAL APPROPRIATIONS/GENERAL FUND**

34  
35 Section 31.1. Appropriations are made from the General Fund of the State for  
36 the 1997-99 biennium for use by the State departments, institutions, and agencies to  
37 provide for capital improvement projects according to the following schedule:

38  
39 Capital Improvements - General Fund

40 1997-98

41  
42 University Board of Governors (Total)

\$ 59,518,175

43 1. UNC - Chapel Hill -

- 1 a. Addition to the Institute of Government
- 2 Knapp Building 4,000,000
- 3 b. Addition to Beard Hall - School
- 4 of Pharmacy 8,824,600
- 5 c. North Carolina Botanical Garden - Planning 350,000
- 6 d. Expansion of the Carolina Living
- 7 and Learning Center 1,274,275
- 8
- 9 2. N.C. State University -
- 10 a. Completion of Eastern 4-H Environmental
- 11 Education Center 5,545,300
- 12 b. Expansion of CMAST Building 2,363,000
- 13 c. Finalize Construction Drawings
- 14 for the J.C. Raulston Arboretum 87,000
- 15
- 16 3. UNC - Greensboro -
- 17 Additional Funding for the Science
- 18 Lab and Classroom Building 8,000,000
- 19
- 20 4. East Carolina University -
- 21 Complete Expansion of Dowdy-Ficklen
- 22 Stadium 7,000,000
- 23
- 24 5. UNC - Charlotte -
- 25 Construction of Building and Relocation of
- 26 Equipment for Polymer's Extension Program 1,450,000
- 27
- 28 6. UNC - Pembroke -
- 29 Construction of Residence Hall 5,979,500
- 30
- 31 7. UNC - Asheville -
- 32 Kellogg Center 500,000
- 33
- 34 8. Elizabeth City State University -
- 35 Completion of Fine Arts Building 3,000,000
- 36
- 37 9. A & T State University -
- 38 Additional Funding for General
- 39 Classroom and Lab Building 4,000,000
- 40
- 41 10. UNC - Public Television
- 42 Replace and Upgrade Columbia
- 43 Transmitter, Tower and Ancillary

1	Equipment	7,144,500	
2			
3	Department of Community Colleges (Total)		\$ 500,000
4			
5	1. Center for Applied Textile Technology -		500,000
6	a. Maintenance and Storage Facility	62,800	
7	b. Planning, Design and Site Development		
8	for Lab and Administration Building	437,200	
9			
10	Department of Cultural Resources (Total)		\$5,000,000
11			
12	1. Maritime Museum - Land Acquisition	1,500,000	
13	2. Museum of Cape Fear - Continued Development	1,100,000	
14	3. Museum of Albemarle - Planning, Site Development		1,000,000
15	4. Roanoke Island Commission - Exhibits	1,400,000	
16			
17	Department of Environment, Health, and Natural Resources (Total)		\$25,543,000
18			
19	1. Water Resources Development Projects	6,343,000	
20	2. Museum of Natural Science - Exhibits	7,600,000	
21	3. N.C. Aquariums - Expand one Aquarium	11,500,000	
22	4. Wayne County Forestry Headquarters - An		
23	Addition to Equipment Building	100,000	
24			
25	Department of Agriculture (Total)		\$5,800,000
26			
27	1. State Fair Multipurpose Events Building -		
28	Planning and Site Development	1,000,000	
29	2. Piedmont-Triad Farmers Market		
30	Planning Wholesale/Retail Building	300,000	
31	3. Eastern Agricultural Center -		
32	Continued Development	3,500,000	
33	4. Southeastern Farmers' Market and		
34	Agricultural Center - Continued Development		1,000,000
35			
36	Department of Human Resources (Total)		\$500,000
37			
38	Eastern School for the Deaf & Hard of Hearing		
39	- Planning for Dorm		500,000
40			
41	Department of Correction (Total)		\$700,000
42			
43	1. Alexander County - Planning for Single Cell Facility	300,000	



1	2.	Carteret County - Multipurpose Modular Building	400,000	
2				
3		Department of Crime Control and Public Safety (Total)		\$1,260,300
4				
5	1.	Charlotte National Guard Armory -		
6		State Share of Construction Costs	1,260,300	
7	2.	State Highway Patrol - Removal and		
8		Replacement of Underground Fuel Storage		
9		Tanks - Highway Fund	\$650,000	---
10				
11		Total Capital Improvements		\$98,821,475

12  
13 Requested by: Senators Odom, Plyler, Perdue

14 **EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND**  
15 **RENOVATIONS**

16 Section 31.3. (a) Of the funds in the Reserve for Repairs and Renovations for the  
17 1997-98 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors  
18 of The University of North Carolina for repairs and renovations pursuant to G.S. 143-  
19 15.3A, in accordance with guidelines developed in The University of North Carolina  
20 Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the  
21 Board of Governors of The University of North Carolina, and fifty-four percent (54%)  
22 shall be allocated to the Office of State Budget and Management for repairs and  
23 renovations pursuant to G.S. 143-15.3A.

24 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds  
25 for the repair and renovation of facilities not supported from the General Fund if the  
26 Board determines that sufficient funds are not available from other sources and that  
27 conditions warrant General Fund assistance. Any such finding shall be included in the  
28 Board's submission to the Joint Legislative Commission on Governmental Operations on  
29 the proposed allocation of funds.

30 The Board of Governors and the Office of State Budget and Management  
31 shall submit to the Joint Legislative Commission on Governmental Operations and to the  
32 Fiscal Research Division of the Legislative Services Office, for their review, the  
33 proposed allocation of these funds. Subsequent changes in the proposed allocations shall  
34 be reported prior to expenditure to the Joint Legislative Commission on Governmental  
35 Operations and to the Fiscal Research Division of the Legislative Services Office.

36 (b) Of the funds allocated to the Board of Governors of The University of  
37 North Carolina for repairs and renovations in subsection (a) of this section, allocations for  
38 the projects listed below shall be made as follows:

39				
40	1.	UNC-CH - Renovations of Knapp Building		\$4,532,100
41	2.	NCSU - Nelson Hall Renovations		6,914,900.
42				

The allocations for these two projects shall be made prior to the application of the Repairs and Renovations formula to the balance of the fund for all campuses.

(c) Of the funds allocated to the Office of State Budget and Management for repairs and renovations in subsection (a) of this section, allocations for the listed projects shall be made as follows:

1. Agriculture - Rollins Lab Renovations		537,000	
2. Commerce -State Port at Wilmington		3,000,000	
State Port at Morehead City		3,000,000	
3. Human Resources - Western Carolina Center			
Renovate Main Kitchen & Dining Area	575,000		
Perimeter Road resurfacing	393,900		
Replace cooking equipment - gym	62,000		
Swimming pool pipe replacement	48,800		
Replace asbestos floor tile - gym	89,500		
Renovate Spruce & Pine Cottages	1,100,000		
Renovate Poplar & Ash Cottages	1,100,000		
Reroofing projects	<u>245,000</u>		3,614,200
4. Cultural Resources - North Carolina Museum of History Interior Finishes and Engineering			1,191,055

Requested by: Senator Warren

**HISTORIC SITES REPAIRS AND RENOVATIONS FUNDS**

Section 31.4. (a) Funds allocated in Section 31.3 of this act to the Office of State Budget and Management for the Repairs and Renovations Fund may be used to make needed repairs and renovations at the State Historic Sites.

(b) There is established the Historic Sites Repairs and Renovations Review Committee. The Committee shall consist of the following members: The three cochairs of the Senate Appropriations and Base Budget Committee and the four cochairs of the House of Representatives Appropriations Committee. The Office of State Budget and Management shall submit its proposal for the use of funds from the Repairs and Renovations Fund for Historic Sites to the Committee before submitting the proposal to the Joint Legislative Commission on Governmental Operations in accordance with Section 31.3 of this act.

Requested by: Senators Martin of Pitt, Perdue, Plyler

**WATER RESOURCES DEVELOPMENT PROJECTS FUNDS**

Section 31.5. (a)The Department of Environment, Health, and Natural Resources shall allocate the funds appropriated in Section 31.1 of this act for water resources development projects to the following projects whose estimated costs are as indicated:

Name of Project

1			
2	1.	B. Everett Jordan Water Supply Repayment	\$ 90,000
3			
4	2.	Wilmington Harbor Maintenance Dredging	455,000
5			
6	3.	Wilmington Harbor Channel Widening	1,570,000
7			
8	4.	Manteo Shallowbag Bay Maintenance Dredging	150,000
9			
10	5.	Aquatic Plant Control Statewide and Lake Gaston	150,000
11			
12	6.	Wilmington Harbor Long-Term Disposal	285,000
13			
14	7.	Carolina Beach Renourishment	765,000
15			
16	8.	Wrightsville Beach Renourishment	335,000
17			
18	9.	Wanchese Marsh Creation and Protection	200,000
19			
20	10.	North and Manteo Channel Maintenance Dredging	1,100,000
21			
22	11.	State - Local Water Projects	
23			
24	a.	McLendons Creek Stream Restoration (Moore Co.)	30,000
25	b.	Allens Creek Water Management (Haywood Co.)	25,000
26	c.	Big Elkin Creek Stream Restoration (Surry Co.)	8,000
27	d.	Beech Mountain Stream Restoration Projects (Watauga Co.)	30,000
28	e.	Tuckasegee River Access (Swain Co.)	60,000
29	f.	Brevard High School Wetland Boardwalk (Transylvania Co.)	8,000
30	g.	Tranters Creek - Flat Swamp Drainage (Martin Co.)	36,300
31	h.	River Bend Canals Maintenance Dredging (Craven Co.)	292,000
32	i.	Haw River Access (Alamance Co.)	17,400
33	j.	Graham - Mebane Lake Pier and Picnic Facility (Alamance Co.)	20,000
34	k.	French Broad River Park (Buncombe Co.)	30,000
35	l.	Mill Creek Wetland and Trail Construction (Forsyth Co.)	13,300
36	m.	Kitty Hawk Beach Access (Dare Co.)	80,500
37	n.	Wetland Water Management (Dare Co.)	10,000
38	o.	Lovill's Creek Greenway (Surry Co.)	89,000
39	p.	Elm Street Drainage (Moore Co.)	20,000
40	q.	Scott Branch Drainage (Stokes Co.)	30,000
41	r.	Contentnea Creek Drainage, Phase IV (Wilson Co.)	<u>29,100</u>
42			
43		Subtotals	\$828,100

12.	Dare County Beaches Feasibility Study	225,000
13.	Harker's Island Navigation Study	40,000
14.	Planning Assistance to Communities	150,000
	TOTAL	\$6,343,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1997-98 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1997-98.
- (3) State-local Water Resources Development Projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1998-99 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Senators Perdue, Plyler, and Odom

### **HIGHWAY PATROL-UNDERGROUND FUEL TANK REMOVAL AND REMEDIATION FUNDS**

Section 31.6. Notwithstanding any other provision of law, of the unreserved credit balance in the Highway Fund available on July 1, 1997, six hundred fifty thousand dollars (\$650,000) shall be used for the removal and replacement of underground fuel storage tanks located at various State Highway Patrol installations across the state.

1 Requested by: Senators Plyler, Perdue, Odom

2 **PROCEDURES FOR DISBURSEMENT**

3 Section 31.7. The appropriations made by the 1997 General Assembly for  
4 capital improvements shall be disbursed for the purposes provided by this act.  
5 Expenditure of funds shall not be made by any State department, institution, or agency,  
6 until an allotment has been approved by the Governor as Director of the Budget. The  
7 allotment shall be approved only after full compliance with the Executive Budget Act,  
8 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction  
9 contracts for projects to be financed in whole or in part with self-liquidating  
10 appropriations, the Director of the Budget shall approve the elements of the method of  
11 financing of those projects including the source of funds, interest rate, and liquidation  
12 period. Provided, however, that if the Director of the Budget approves the method of  
13 financing a project, the Director shall report that action to the Joint Legislative  
14 Commission on Governmental Operations at its next meeting.

15 Where direct capital improvement appropriations include the purpose of  
16 furnishing fixed and movable equipment for any project, those funds for equipment shall  
17 not be subject to transfer into construction accounts except as authorized by the Director  
18 of the Budget. The expenditure of funds for fixed and movable equipment and  
19 furnishings shall be reviewed and approved by the Director of the Budget prior to  
20 commitment of funds.

21 Capital improvement projects authorized by the 1997 General Assembly shall  
22 be completed, including fixed and movable equipment and furnishings, within the limits  
23 of the amounts of the direct or self-liquidating appropriations provided, except as  
24 otherwise provided in this act. Capital improvement projects authorized by the 1997  
25 General Assembly for the design phase only shall be designed within the scope of the  
26 project as defined by the approved cost estimate filed with the Director of the Budget,  
27 including costs associated with site preparation, demolition, and movable and fixed  
28 equipment.

29

30 Requested by: Senators Plyler, Perdue, Odom

31 **RESERVE FOR ADVANCE PLANNING**

32 Section 31.8. The Office of State Budget and Management shall report to the  
33 Joint Legislative Commission on Governmental Operations and to the Fiscal Research  
34 Division on how it intends to spend funds from the Reserve for Advance Planning at least  
35 45 days before it spends the funds.

36 The Office of State Budget and Management shall also report the results of  
37 any project on which it uses funds from the Reserve for Advance Planning to the Joint  
38 Legislative Commission on Governmental Operations and to the Fiscal Research  
39 Division.

40

41 Requested by: Senators Plyler, Perdue, Odom

42 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

1           Section 31.9. When each capital improvement project appropriated by the  
2 1997 General Assembly, other than those projects under the Board of Governors of The  
3 University of North Carolina, is placed under a construction contract, direct  
4 appropriations shall be encumbered to include all costs for construction, design,  
5 investigation, administration, movable equipment, and a reasonable contingency.  
6 Unencumbered direct appropriations remaining in the project budget shall be placed in a  
7 project reserve fund credited to the Office of State Budget and Management. Funds in  
8 the project reserve may be used for emergency repair and renovation projects at State  
9 facilities with the approval of the Director of the Budget. The project reserve fund may  
10 be used, at the discretion of the Director of the Budget, to allow for award of contracts  
11 where bids exceed appropriated funds, if those projects supplemented were designed  
12 within the scope intended by the applicable appropriation or any authorized change in it,  
13 and if, in the opinion of the Director of the Budget, all means to award contracts within  
14 the appropriation were reasonably attempted. At the discretion of the Director of the  
15 Budget, any balances in the project reserve fund shall revert to the original source.

16  
17 Requested by: Senators Plyler, Perdue, Odom

18 **PROJECT COST INCREASE**

19           Section 31.10. Upon the request of the administration of a State agency,  
20 department, or institution, the Director of the Budget may, when in the Director's opinion  
21 it is in the best interest of the State to do so, increase the cost of a capital improvement  
22 project. Provided, however, that if the Director of the Budget increases the cost of a  
23 project, the Director shall report that action to the Joint Legislative Commission on  
24 Governmental Operations at its next meeting. The increase may be funded from gifts,  
25 federal or private grants, special fund receipts, excess patient receipts above those  
26 budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital  
27 improvement appropriations to that department or institution.

28  
29 Requested by: Senators Plyler, Perdue, Odom

30 **NEW PROJECT AUTHORIZATION**

31           Section 31.11. Upon the request of the administration of any State agency,  
32 department, or institution, the Governor may authorize the construction of a capital  
33 improvement project not specifically authorized by the General Assembly if such project  
34 is to be funded by gifts, federal or private grants, special fund receipts, excess patient  
35 receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill,  
36 or self-liquidating indebtedness. Provided, however, that if the Director of the Budget  
37 authorizes the construction of such a capital improvement project, the Director shall  
38 report that action to the Joint Legislative Commission on Governmental Operations at its  
39 next meeting.

40  
41 Requested by: Senators Plyler, Perdue, Odom

42 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

1 Section 31.12. Funds that become available by gifts, excess patient receipts  
2 above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or  
3 private grants, receipts becoming a part of special funds by act of the General Assembly  
4 or any other funds available to a State department or institution may be utilized for  
5 advance planning through the working drawing phase of capital improvement projects,  
6 upon approval of the Director of the Budget. The Director of the Budget may make  
7 allocations from the Advance Planning Fund for advance planning through the working  
8 drawing phase of capital improvement projects, except that this revolving fund shall not  
9 be utilized by the Board of Governors of The University of North Carolina or the State  
10 Board of Community Colleges.

11 Requested by: Senators Plyler, Perdue, Odom

### 12 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

13 Section 31.13. Except as permitted in previous sections of this act, the  
14 appropriations for capital improvements made by the 1997 General Assembly may be  
15 expended only for specific projects set out by the 1997 General Assembly and for no  
16 other purpose. Construction of all capital improvement projects enumerated by the 1997  
17 General Assembly shall be commenced, or self-liquidating indebtedness with respect to  
18 them shall be incurred, within 12 months following the first day of the fiscal year in  
19 which the funds are available. If construction contracts on those projects have not been  
20 awarded or self-liquidating indebtedness has not been incurred within that period, the  
21 direct appropriation for those projects shall revert to the original source, and the self-  
22 liquidating appropriation shall lapse; except that direct appropriations may be placed in a  
23 reserve fund as authorized in this act. This deadline with respect to both direct and self-  
24 liquidating appropriations may be extended with the approval of the Director of the  
25 Budget up to an additional 12 months if circumstances and conditions warrant such  
26 extension.  
27

### 28 **PART XXXII. MISCELLANEOUS PROVISIONS**

29 Requested by: Senators Plyler, Perdue, Odom

### 30 **EXECUTIVE BUDGET ACT APPLIES**

31 Section 32. The provisions of the Executive Budget Act, Chapter 143, Article  
32 1 of the General Statutes, are reenacted and shall remain in full force and effect and are  
33 incorporated in this act by reference.  
34

35 Requested by: Senators Plyler, Perdue, Odom

### 36 **COMMITTEE REPORT**

37 Section 32.1. (a) The Senate Appropriations Committee Report on the Continuation,  
38 Expansion, and Capital Budget, dated April 23, 1997, which was distributed in the Senate  
39 and used to explain this act, shall indicate action by the General Assembly on this act and  
40 shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive  
41  
42

1 Budget Act, and for these purposes shall be considered a part of this act and as such shall  
2 be printed as a part of the Session Laws.

3 (b) The budget enacted by the General Assembly for the maintenance of the  
4 various departments, institutions, and other spending agencies of the State for the 1997-  
5 99 fiscal biennium is a line item budget, in accordance with the Budget Code Structure  
6 and the State Accounting System Uniform Chart of Accounts set out in the  
7 Administrative Policies and Procedures Manual of the Office of the State Controller.  
8 This budget includes the appropriations made from all sources including the General  
9 Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental  
10 receipts.

11 The General Assembly amended the itemized budget requests submitted to the  
12 General Assembly by the Director of the Budget and the Advisory Budget Commission,  
13 in accordance with the steps that follow and the line item detail in the budget enacted by  
14 the General Assembly may be derived accordingly:

15 (1) The negative reserve set out in the submitted budget was deleted and the  
16 totals were increased accordingly.

17 (2) The base budget was adjusted in accordance with the base budget cuts  
18 and additions that were set out in the Senate Appropriations Committee  
19 Report on the Continuation, Expansion, and Capital Budget, dated April  
20 23, 1997, together with any accompanying correction sheets.

21 (3) Transfers of funds supporting programs were made in accordance with  
22 the Senate Appropriations Committee Report on the Continuation,  
23 Expansion, and Capital Budget, dated April 23, 1997, together with any  
24 accompanying correction sheets.

25 The budget enacted by the General Assembly shall also be interpreted in  
26 accordance with the special provisions in this act and in accordance with other  
27 appropriate legislation.

28 In the event that there is a conflict between the line item budget certified by the  
29 Director of the Budget and the budget enacted by the General Assembly, the budget  
30 enacted by the General Assembly shall prevail.

31  
32 Requested by: Senators Plyler, Perdue, Odom

33 **MOST TEXT APPLIES ONLY TO 1997-99**

34 Section 32.2. Except for statutory changes or other provisions that clearly  
35 indicate an intention to have effects beyond the 1997-99 fiscal biennium, the textual  
36 provisions of this act apply only to funds appropriated for, and activities occurring  
37 during, the 1997-99 fiscal biennium.

38  
39 Requested by: Senators Plyler, Perdue, Odom

40 **EFFECT OF HEADINGS**

41 Section 32.3. The headings to the parts and sections of this act are a  
42 convenience to the reader and are for reference only. The headings do not expand, limit,  
43 or define the text of this act.



1  
2 Requested by: Senators Plyler, Perdue, Odom  
3 **SEVERABILITY CLAUSE**  
4           Section 32.4. If any section or provision of this act is declared unconstitutional  
5 or invalid by the courts, it does not affect the validity of this act as a whole or any part  
6 other than the part so declared to be unconstitutional or invalid.  
7  
8 Requested by: Senators Plyler, Perdue, Odom  
9 **EFFECTIVE DATE**  
10           Section 32.5. Except as otherwise provided, this act becomes effective July 1,  
11 1997.