

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 689
HOUSE BILL 83

AN ACT TO MAKE BASE BUDGET AND EXPANSION BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE APPROPRIATIONS FOR CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE APPROPRIATIONS FOR OTHER PURPOSES; TO PROVIDE FOR BUDGET REFORM; AND TO PROVIDE FOR REVENUE RECONCILIATION.

The General Assembly of North Carolina enacts:

—INTRODUCTION

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

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—TITLE OF ACT

Sec. 2. This act shall be known as "The Appropriations and Budget Revenue Act of 1991." This act contains the Current Operations Appropriations Bill, the Expansion Budget Appropriations Bill, the Capital Improvements Appropriations Bill, the Budget Reform Bill, and the Budget Revenue Bill.

TITLE I. - CURRENT OPERATIONS

PART 1.—GENERAL FUND APPROPRIATIONS

—CURRENT OPERATIONS/GENERAL FUND

Sec. 3. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1993, according to the following schedule:

Current Operations-General Fund

1991-92

1992-93

General Assembly	\$ 17,938,648	\$ 21,046,954
Judicial Department	206,206,015	211,237,680
Department of the Governor		
01. Office of the Governor	5,469,301	5,518,312
02. Office of State Budget and Management	3,792,373	3,949,479
Lieutenant Governor's Office	540,195	546,884
Department of Secretary of State	4,326,650	4,051,626
Department of State Auditor	12,842,567	12,932,026
Department of State Treasurer	4,900,761	4,942,109
Department of Public Education	3,222,375,181	3,255,378,574
Department of Justice	49,523,536	49,256,518
Department of Administration		
01. Administration	47,434,529	50,504,200
02. State Controller	4,953,289	5,003,852
Department of Agriculture	38,807,702	39,005,796
Department of Labor	7,912,145	8,024,539
Department of Insurance	11,922,592	11,999,219
Department of Transportation		
01. Aeronautics	8,316,571	8,116,571
02. Aid to Railroads	128,406	100,000
Total Department of Transportation	8,444,977	8,216,571
Department of Environment, Health, and Natural Resources	170,211,080	171,781,349
Office of Administrative Hearings	1,271,644	-
Administrative Rules Review Commission	249,502	251,675

Department of Human Resources

01.	Alcohol Drug Abuse Treatment Center - Black Mountain	3,817,687	3,863,726
02.	Alcohol Drug Abuse Treatment Center - Butner	3,220,345	3,265,434
03.	Alcohol Drug Abuse Treatment Center - Greenville	3,252,142	3,296,129
04.	N.C. Special Care Center	565,852	677,743
05.	Black Mountain Center	1,616,376	2,024,711
06.	DHR - Secretary	7,620,495	7,682,412
07.	Division of Aging	8,497,571	8,501,722
08.	Schools for the Deaf and Hard of Hearing	19,020,001	19,314,192
09.	Social Services	130,231,610	137,745,264
10.	Medical Assistance	522,700,569	602,390,661
11.	Social Services-State Aid to Non-State Agencies	5,440,669	5,440,669
12.	Division of Services for the Blind	11,932,076	12,023,790
13.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	185,283,664	186,295,870
14.	Dorothea Dix Hospital	34,977,059	37,689,383
15.	Broughton Hospital	28,988,562	31,007,474
16.	Cherry Hospital	30,316,203	31,973,149
17.	John Umstead Hospital	30,349,582	34,128,381
18.	Western Carolina Center	1,363,260	1,898,909
19.	O'Berry Center	1,851,826	2,343,637
20.	Murdoch Center	8,350,448	8,962,036
21.	Caswell Center	5,317,947	7,746,005
22.	Division of Facility Services	28,239,036	29,332,929
23.	Division of Vocational Rehabilitation Services	21,670,313	21,764,916
24.	Division of Youth Services	45,517,929	45,844,845

Total Department of
Human Resources

1,140,141,222 1,245,213,987

Department of Correction

470,590,160 489,819,693

Department of Economic and Community
Development

01. Economic and Community
Development

24,280,288 24,448,292

02.	Biotechnology	7,157,547	7,157,547
03.	MCNC	16,525,140	16,000,000
04.	Rural Economic Development Center	1,500,000	1,500,000
Department of Revenue		52,328,385	52,739,894
Department of Cultural Resources		38,719,635	39,621,588
Department of Crime Control and Public Safety		25,484,486	25,821,731
University of North Carolina – Board of Governors			
01.	General Administration	13,923,182	17,152,569
02.	University Institutional Program	6,188,426	6,488,426
03.	Related Educational Programs	44,416,685	44,466,685
04.	University of North Carolinaat Chapel Hill		
	a. Academic Affairs	129,483,376	140,160,037
	b. Health Affairs	99,402,904	104,815,735
	c. Area Health Education Centers	31,256,434	31,258,952
05.	North Carolina State University at Raleigh		
	a. Academic Affairs	169,101,616	174,401,151
	b. Agricultural Research Service	35,427,423	35,530,678
	c. Agricultural Extension Service	27,489,796	27,730,526
06.	University of North Carolina at Greensboro	54,283,647	54,936,286
07.	University of North Carolina at Charlotte	55,313,182	55,784,798
08.	University of North Carolina at Asheville	16,562,863	16,774,319
09.	University of North Carolina at Wilmington	32,300,883	32,697,186
10.	East Carolina University		
	a. Academic Affairs	71,884,297	72,760,031
	b. Division of Health Affairs	50,741,525	52,969,402
11.	North Carolina Agricultural and Technical State University	35,573,156	36,250,457
12.	Western Carolina University	34,257,520	34,744,275
13.	Appalachian State University	52,538,346	53,106,386
14.	Pembroke State University	15,605,572	15,702,405
15.	Winston-Salem State University	15,646,556	15,912,120
16.	Elizabeth City State University	14,534,666	14,638,395
17.	Fayetteville State University	16,685,006	16,823,862
18.	North Carolina Central University	26,302,838	26,661,912
19.	North Carolina School of the Arts	8,277,917	8,346,454
20.	North Carolina School of Science and Mathematics	7,162,301	7,131,245
21.	UNC Hospitals at Chapel Hill	37,755,275	47,092,624

Total University of North Carolina – Board of Governors	1,102,115,392	1,144,336,916
Department of Community Colleges	328,828,418	359,794,377
State Board of Elections	470,005	432,918
Contingency and Emergency	1,125,000	1,125,000
Reserve for Salary Adjustments	500,000	500,000
Reserve for Lowest Paid Employees	750,000	750,000
Reserve for Data Processing Equipment	2,500,000	2,500,000
Reserve for State Employees Health Benefit Plan	75,200,000	99,900,000
Reserve for Local Government Tax Sharing/Reimbursements	474,606,174	474,606,174
Debt Service	<u>76,028,270</u>	<u>73,049,578</u>
 GRAND TOTAL CURRENT OPERATIONS – GENERAL FUND	 \$7,657,972,809	 \$7,922,965,058

PART 2.—CURRENT OPERATIONS/HIGHWAY FUND

Sec. 4. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1993, according to the following schedule:

<u>Current Operations-Highway Fund</u>	<u>1991-92</u>	<u>1992-93</u>
Department of Transportation		
01. Administration	\$ 34,009,810	\$ 34,329,674
02. Division of Highways		
a. Administration and Operations	32,533,200	32,866,712
b. State Construction		
(01) Primary Construction	-	-
(02) Secondary Construction	66,121,926	66,717,023

	(03) Urban Construction	10,805,664	10,028,266
	(04) Access and Public Service Roads	2,000,000	2,000,000
	(05) Special Appropriation for Highways	5,000	5,000
	(06) Spot Safety Improvements	9,100,000	9,100,000
c.	State Funds to Match Federal Highway Aid		
	(01) Construction	65,992,066	65,992,066
	(02) Planning Survey and Highway Planning Research	2,959,649	2,959,649
d.	State Maintenance		
	(01) Primary	85,882,433	85,882,433
	(02) Secondary	151,355,630	151,355,630
	(03) Urban	22,714,972	22,714,972
	(04) Contract Resurfacing	100,000,000	102,500,000
e.	Ferry Operations	16,547,896	16,547,896
03.	Division of Motor Vehicles	74,154,792	74,649,678
04.	Governor's Highway Safety Program	286,279	288,736
05.	State Aid to Municipalities	66,121,926	66,717,023
06.	State Aid for Public Transportation	5,038,766	5,046,001
07.	Salary Adjustments for Highway Fund Employees	200,000	200,000
08.	Reserve to Correct Occupational Safety and Health Conditions	425,000	425,000
09.	Reserve to Continue DOT Merit Salary Increases	4,510,383	4,510,383
10.	Debt Service	38,227,230	38,018,250
11.	Reserve for State Employee Health Benefit Plan	6,200,000	8,200,000
Appropriations for Other State Agencies			
01.	Crime Control and Public Safety	83,263,687	86,276,285
02.	Other Agencies		
a.	Department of Agriculture	2,892,001	2,790,013
b.	Department of Revenue	1,921,279	1,923,941
c.	Department of Environment, Health, and Natural Resources: LUST Trust Fund	5,186,720	5,586,046
	Chemical Test Program	376,176	378,286
d.	Department of Correction	4,591,856	4,614,056
e.	Department of Justice	240,250	240,250
f.	Department of Public Education	<u>22,930,662</u>	<u>22,868,826</u>
GRAND TOTAL CURRENT OPERATIONS – HIGHWAY FUND		\$ 916,595,253	\$ 925,732,095

PART 3.—HIGHWAY TRUST FUND

Sec. 4.1. Appropriations from the Highway Trust Fund are made for the fiscal biennium ending June 30, 1993, according to the following schedule:

	1991-92	1992-93
01. Intrastate System	\$ 201,279,015	\$ 203,941,317
02. Secondary Roads Construction	46,099,293	46,878,630
03. Urban Loops	81,313,427	82,389,951
04. State Aid - Municipalities	21,099,293	21,378,630
05. Program Administration	15,108,972	15,311,472
06. Transfer to General Fund	<u>170,000,000</u>	<u>170,000,000</u>
GRAND TOTAL/HIGHWAY TRUST FUND	\$ 534,900,000	\$ 539,900,000

PART 4.—BLOCK GRANT APPROPRIATIONS

Requested by: Representatives Nye, Easterling, Ethridge, H. Hunter, Senators Richardson, Martin of Pitt

—BLOCK GRANT PROVISIONS

Sec. 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1992, according to the following schedule:

TOTAL JOB TRAINING PARTNERSHIP ACT \$ 35,316,871

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 8,906,905
02. Limited Purpose Agencies	494,305
03. Department of Human Resources to administer and monitor the activities of the Community Services Block Grant	484,890
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 9,886,100

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 913,140
02. Urgent Needs/Contingency	1,987,193

03.	Development Planning/Housing	1,987,193
04.	Economic Development	7,948,772
05.	Community Revitalization	27,820,702
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT		\$ 40,657,000

PREVENTIVE HEALTH BLOCK GRANT

01.	Emergency Medical Services	\$ 451,915
02.	Basic Public Health Services	928,395
03.	Hypertension Programs	590,230
04.	Health Education/Risk Reduction Programs and Health Promotion/Local Health Departments	1,013,371
05.	Fluoridation of Water Supplies	158,134
06.	Rape Prevention and Rape Crisis Programs	91,269
07.	AIDS/HIV Education, Counseling, and Testing	290,577
08.	TB Control Program	61,787
TOTAL PREVENTIVE HEALTH BLOCK GRANT		\$ 3,585,678

MATERNAL AND CHILD HEALTH SERVICES

01.	Healthy Mother/Healthy Children Block Grants to Local Health Departments	\$ 11,788,781
02.	High Risk Maternity Clinic Services, Perinatal Education, and Consultation to Local Health Departments and Other Health Care Providers	1,554,303
03.	Services to Disabled Children	5,367,054
04.	Reimbursements for Local Health Departments for Contracted Nutritional Services	120,530

TOTAL MATERNAL AND CHILD HEALTH SERVICES \$ 18,830,668

SOCIAL SERVICES BLOCK GRANT

01.	County Departments of Social Services	\$ 42,846,858
02.	Allocation for In-Home Services provided by County Departments of Social Services	1,184,524
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse	5,514,782
04.	Division of Services for the Blind	3,162,920
05.	Division of Youth Services	1,037,868
06.	Division of Facility Services	330,573
07.	Division of Aging	333,656
08.	Day Care Services	12,158,899
09.	Volunteer Services	55,086
10.	State Administration and State Level Contracts	3,392,468
11.	Voluntary Sterilization Funds	98,710
12.	Transfer to Maternal and Child Health Block Grant	1,670,089
13.	Adult Day Care Services	652,889
14.	County Departments of Social Services for Child Abuse/Prevention and Permanency Planning	394,841
15.	Allocation to Division of Maternal and Child Health for Grants-in-Aid to Prevention Programs	439,261
16.	Transfer to Preventive Health Block Grant for Emergency Medical Services and Basic Public Health Services	486,258
17.	Allocation to Preventive Health Block Grant for AIDS Education	290,577

18.	Allocation to Department of Administration for North Carolina Fund for Children	45,270
19.	Allocation to the Division of Economic Opportunity for Head Start, Elderly and Handicapped Services	197,421
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 74,292,950

LOW INCOME ENERGY BLOCK GRANT

01.	Energy Assistance Programs	\$ 18,407,453
02.	Crisis Intervention	4,441,897
03.	Administration	1,981,400
04.	Weatherization Program	1,737,187
05.	Indian Affairs	27,222
06.	Transfer to Preventive Health Block Grant for Emergency Medical Services Program	209,116
07.	Transfer to Social Services Block Grant for Adult Day Care Services	417,648
08.	Transfer to Social Services Block Grant for State Administration & Contract Service	192,748
09.	Transfer to Maternal and Child Health Block Grant in the Division of Maternal and Child Health for Healthy Mothers and Children	1,696,362
10.	Transfer to SSBG for allocation to the Department of Administration for the North Carolina Fund for Children	45,270
TOTAL LOW INCOME ENERGY BLOCK GRANT		\$ 29,156,303

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH
SERVICES BLOCK GRANT

01.	Allocate funds to the four regional offices on a per capita basis for mental health services	\$ 1,866,556
02.	Programs for the Chronically Mentally Ill	3,336,748
03.	Continuation of child mental health nonresidential services in accordance with the Child Mental Health Plan	315,013
04.	Continuation of child mental health residential services including group homes, specialized foster care, therapeutic homes, professional parenting programs, and respite care, with an emphasis on children under the age of 12	359,703
05.	Continuation and expansion of community- based alcohol and drug services including prevention, early intervention, treatment, rehabilitation, nonhospital medical detoxification, and training	6,121,682
06.	Continuation and expansion of services to female substance abusers, including specialized services at the ADATCS	2,652,698
07.	Continuation and expansion of services to IV drug abusers, including increased capacity for drug screens and IV services at the ADATCS	3,518,950
08.	Services to adolescents, including continuation and expansion of services in accordance with the Youth Substance Abuse Plan	3,140,864
09.	Funding to support the provision of Treatment Alternatives to Street Crimes (TASC) programs for adults and four demonstration projects with local jails	462,104
10.	Continuing of funding for detoxification services in the Eastern Region	1,048,110
11.	Administration	1,085,098
TOTAL ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH SERVICES BLOCK GRANT		\$ 23,907,526

MENTAL HEALTH SERVICES FOR THE HOMELESS
BLOCK GRANT

01.	Specialized Community Services for the Chronically Mentally Ill	\$ 420,000
02.	Community-Based Services for Chronically Mentally Ill Youth	97,656
03.	Administration	13,344
TOTAL MENTAL HEALTH SERVICES FOR THE HOMELESS BLOCK GRANT		\$ 531,000

COMMUNITY YOUTH ACTIVITY PROGRAM BLOCK GRANT

01.	Development of Community-Based Substance Abuse Prevention Programs for Youth	\$ 92,091
TOTAL COMMUNITY YOUTH ACTIVITY PROGRAM BLOCK GRANT		\$ 92,091

CHILD CARE AND DEVELOPMENT BLOCK GRANT

01.	Child Day Care Services	14,752,146
02.	Head Start Wrap-Around	3,337,000
03.	Revolving Loans/Grants	500,000
04.	County Day Care Coordinators	467,167
05.	Staff/Child Ratio Reduction	208,300
06.	Study of Day Care Salaries	100,000
07.	Child Care Worker Credentials	100,000
08.	Resource and Referral Programs	650,000
09.	Facility Services Administration	202,054
TOTAL CHILD CARE AND DEVELOPMENT BLOCK GRANT		\$ 20,316,667

(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 by the same percentage as the reduction in federal funds.

(c) Increases in Federal Fund Availability

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

- (1) For the Community Development Block Grant or for the Preventive Health Block Grant – each program category under the Community Development Block Grant or the Preventive Health Block Grant, as applicable, shall be increased by the same percentage as the increase in federal funds.
- (2) For the Maternal and Child Health Services Block Grant – these additional funds shall be allocated to local health departments to assist in the reduction of infant mortality.
- (3) For other block grants – these additional funds may be budgeted by the appropriate department, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly. All these budgeted increases shall be reported to the Joint Legislative Commission on Governmental Operations and to the Director of the Fiscal Research Division.

This subsection shall not apply to Job Training Partnership Act funds.

(d) Education Setaside of JTPA Funds

The Department of Economic and Community Development shall certify to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office when Job Training Partnership Act funds have been distributed to each agency, the total amount distributed to each agency, and the total amount of eight percent (8%) Education Setaside funds received.

PART 5.—GENERAL PROVISIONS

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL
RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Sec. 6. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute. The Director of the Budget shall develop necessary budget controls, regulations, and systems to ensure that these funds and other State funds subject to the Executive Budget Act, may not be spent in a manner which would cause a deficit in expenditures.

Pursuant to G.S. 143-34.2, State departments, agencies, institutions, boards, or commissions may make application for, receive, or disburse any form of non-State aid. All non-State monies received shall be deposited with the State Treasurer unless otherwise provided by State law. These funds shall be expended in accordance with the terms and conditions of the fund award that are not contrary to the laws of North Carolina.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—INSURANCE AND FIDELITY BONDS

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

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—CONTINGENCY AND EMERGENCY FUND ALLOCATION

Sec. 8. Of the funds appropriated in this Title to the Contingency and Emergency Fund, \$900,000 for the 1991-92 fiscal year and \$900,000 for the 1992-93 fiscal year shall be designated for emergency allocations, which are for the purposes outlined in G.S. 143-23(a1). \$225,000 for the 1991-92 fiscal year and \$225,000 for the 1992-93 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—PERMIT DEVIATION FROM EXPENDITURE OF FUNDS RESTRICTION

Sec. 8.1. For the 1991-92 fiscal year only, G.S. 143-16.3 does not apply to the extent that the Director of the Budget finds that compliance is impossible and that deviation is necessary because of complications in the budget process that were not contemplated when the budget for the 1991-93 fiscal biennium was enacted.

The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reasons that compliance may be impossible and the complications in the budget process that were not contemplated when the budget for the 1991-93 fiscal biennium was enacted that may make compliance impossible.

The Director of the Budget shall report on a quarterly basis for the first six months of the 1991-92 fiscal year and monthly thereafter, to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office on any deviations from G.S. 143-16.3, the reasons that compliance was impossible, and the complications in the budget process that were not contemplated when the budget for the 1991-93 fiscal biennium was enacted that made compliance impossible.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—BUDGETING OF PILOT PROGRAMS

Sec. 9. (a) Any program designated by the General Assembly as experimental, model, or pilot shall be shown as a separate budget item and shall be considered as an expansion item until a succeeding General Assembly reapproves it.

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

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

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—AUTHORIZED TRANSFERS

Sec. 10. The Director of the Budget may transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and may transfer to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds may be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—EXPENDITURES OF FUNDS IN RESERVES LIMITED

Sec. 11. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—NONPROFITS MAY RELINQUISH FUNDS

Sec. 12. G.S. 143-6.1 reads as rewritten:

"§ 143-6.1. Information from private organizations receiving State funds.

Every private person, corporation, organization, and institution which receives, uses or expends any State funds shall use or expend such funds only for the purposes for which such State funds were appropriated by the General Assembly or collected by the State.

Each private person, corporation, organization, and institution which uses or expends State funds in the amount of twenty-five thousand dollars (\$25,000) or more annually, except when the funds are compensation for goods or services, shall file annually with the State Auditor and with the Joint Legislative Commission on Governmental Operations a financial statement in such form and on such schedule as shall be prescribed by the State Auditor, and shall furnish to the State Auditor for audit all books, records and other information as shall be necessary for the State Auditor to account fully for the use and expenditure of State funds. Each such private person, corporation, organization, and institution shall furnish such additional financial or budgetary information as shall be requested by the State Auditor or by the Joint

~~Committee~~ Legislative Commission on Governmental Operations. The State shall not disburse State funds appropriated by the General Assembly or collected by the State for use by any private person, corporation, organization, or institution unless that person, corporation, organization, or institution has provided all the reports and financial information required by this section. All financial statements furnished to the State Auditor or to the Joint Legislative Commission on Governmental Operations pursuant to this section, and any audits or other reports prepared by the State Auditor, shall be public records.

The receipt, use or expenditure of State funds by a private person, corporation, organization, and institution shall not, in and of itself, make or constitute such person, corporation, organization, or institution a State agency."

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

Sec. 13. Each private, nonprofit entity eligible to receive State funds, either by General Assembly appropriation, or by grant, loan, or other allocation from a State agency, before funds may be disbursed to the entity, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

Requested by: Representatives H. Hunter, Dockham, James, Ethridge, DeVane, Senator Martin of Pitt

—DEPARTMENTAL REDUCTIONS/COUNTIES HARMLESS

Sec. 14. The Departments of Environment, Health, and Natural Resources, Economic and Community Development, Labor, and Agriculture shall not reduce continuing operations disbursements to local governments for the 1991-92 fiscal year and the 1992-93 fiscal year below the disbursement level for the 1990-91 fiscal year solely for the purpose of effectuating reductions to those Departments required by this act unless these reductions are specified in Aid-To-Counties line items in this act.

PART 6.—STATE BOARD OF ELECTIONS

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY TO THE DATE OF THE REGULAR STATEWIDE PRIMARY, AND ELIMINATE REIMBURSEMENT TO THE COUNTIES OF THE EXPENSE OF HOLDING A SEPARATE PRIMARY

Sec. 15. (a) G.S. 163-213.2 reads as rewritten:

"§ 163-213.2. Primary to be held; date; qualifications and registration of voters.

On the ~~second Tuesday in March, 1988,~~ Tuesday after the first Monday in May, 1992, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the 21st day prior to the said primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

(b) G.S. 163-213.3 reads as rewritten:

"§ 163-213.3. Conduct of election.

The presidential preference primary election shall be conducted and canvassed by the same authority and in the manner provided by law for the conduct and canvassing of the primary election for the office of Governor and all other offices enumerated in G.S. 163-187 and under the same provisions stipulated in G.S. ~~163-188,~~ 163-188. ~~except that the earliest date by which absentee ballots shall be available shall be 35 days prior to the date of the primary.~~ The State Board of Elections shall have authority to promulgate reasonable rules and regulations, not inconsistent with provisions contained herein, pursuant to the administration of this Article."

(c) G.S. 163-213.4 reads as rewritten:

"§ 163-213.4. Nomination by State Board of Elections.

The State Board of Elections shall convene in Raleigh on the first Tuesday in ~~January-February~~ preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have become eligible to receive payments from the Presidential Primary Matching Payment Account, as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as amended. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with."

(d) G.S. 163-213.11 is repealed.

PART 7.—OFFICE OF STATE AUDITOR

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—DEPARTMENT OF REVENUE PERFORMANCE AUDIT

Sec. 16. The State Auditor shall conduct an operations performance audit of the Department of Revenue with particular attention to auditing the efficiency of

information systems and the effectiveness of tax collection systems. The State Auditor shall report the results of the audit to the General Assembly on or before May 1, 1992.

PART 8.—DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—BOARD OF SCIENCE AND TECHNOLOGY LIMITATION

Sec. 17. All funds appropriated in the 1991-92 fiscal year and the 1992-93 fiscal year for research grants for the Board of Science and Technology shall be used only for research grants and shall not be transferred to any other objects of expenditure.

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—OFFICE OF STATE PERSONNEL DECENTRALIZATION

Sec. 18. (a) Effective January 1, 1993, the Office of State Personnel shall have decentralized the classification and salary administration functions of all State departments with more than 500 permanent full-time employees, subject to criteria and standards set by the State Personnel Commission. The Commission shall have the authority to suspend decentralization when agencies violate State Personnel Commission criteria and standards.

The Office of State Personnel shall report annually to the Joint Legislative Commission on Governmental operations and to the Fiscal Research Division by December 1 of each year, beginning on December 1, 1991, on its progress towards this decentralization.

(b) The Office of State Personnel shall present its plan for decentralization of the classification and salary administration functions to the State Personnel Study Commission or its successor. The State Personnel Study Commission shall consider those statutory changes as may facilitate decentralization and report its recommendations to the General Assembly by April 1, 1992.

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—COUNCIL OF GOVERNMENT FUNDS

Sec. 19. (a) Of the funds appropriated in this Title to the Department of Administration, \$864,270 for 1991-92 fiscal year and \$864,270 for 1992-93 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to \$48,015 each fiscal year, with the actual amount calculated as provided in subsection (b) of this section.

(b) The funds shall be allocated as follows: A share of the maximum \$48,015 each fiscal year shall be allocated to each county and smaller city based on the most recent annual estimate of the Office of State Budget and Management of the population of that county (less the population of any larger city within that county) or smaller city, divided by the sum of the total population of the region (less the population of larger cities within that region) and the total population of the region living in smaller cities. Those funds shall be paid to the regional council of government for the region in which that city or county is located upon receipt by the Department of Administration of

a resolution of the governing board of the county or city requesting release of the funds. If any city or county does not so request payment of funds by June 30 of a State fiscal year, that share of the allocation for that fiscal year shall revert to the General Fund.

(c) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

(d) Funds appropriated by this section may not be used for payment of dues or assessments by the member governments, and may not supplant funds appropriated by the member governments.

(e) As used in this section "Larger City" means an incorporated city with a population of 50,000 or over. "Smaller City" means any other incorporated city.

Requested by: Representatives Bowman, N.J. Crawford, Senators Martin of Guilford, Marvin

—ALLOCATION OF RAPE CRISIS CENTER FUNDS

Sec. 20. All funds for the Rape Crisis Centers appropriated to the Department of Administration, the North Carolina Council for Women, for the 1991-92 fiscal year and the 1992-93 fiscal year in this Title shall be available to Rape Crisis Centers providing direct services to victims of sexual assault and rape prevention services. Funds shall be awarded according to criteria established by the Department of Administration. Grants shall be awarded by September 1 each fiscal year and the funds disbursed on a quarterly basis.

Requested by: Representatives Bowman, N.J. Crawford, Senators Martin of Guilford, Perdue

—DOMESTIC VIOLENCE CENTER FUNDS

Sec. 21. The funds appropriated in this Title to the Department of Administration, the North Carolina Council for Women, for fiscal years 1991-92 and 1992-93 for domestic violence centers, shall be allocated equally among domestic violence centers in operation on July 1, 1990, that offer services including a hotline, transportation services, community education programs, daytime services, and call forwarding during the night and that fulfill other criteria established by the Department of Administration. Grants shall be awarded based on criteria established by the Department of Administration and disbursed on a quarterly basis. The North Carolina Coalition Against Domestic Violence, Incorporated, is eligible for a grant of \$10,000 under this section.

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford

—MOTOR FLEET MANAGEMENT CHANGES/EFFICIENCY

MEASURES/COMMUTING AND SPECIAL USE VEHICLE RESTRICTIONS

Sec. 22. G.S. 143-341(8)i. reads as rewritten:

- "i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:
1. To establish and operate central facilities for the maintenance, repair, and storage of state-owned passenger motor vehicles for the use of State agencies; to utilize any available State facilities for that purpose; and to establish such subsidiary facilities as the Secretary may deem necessary.
 2. To acquire passenger motor vehicles by transfer from other State agencies and by purchase. All motor vehicles transferred to or purchased by the Department shall become part of a central motor pool.
 3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol or the State Bureau of Investigation which are used primarily for law-enforcement purposes, and except those motor vehicles under the ownership, custody or control of the Department of Crime Control and Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes.
 4. To maintain, store, repair, dispose of, and replace state-owned motor vehicles under the control of the Department. The Department shall ensure that state-owned vehicles are not normally replaced until they have been driven for 90,000 miles or more.
 5. Upon proper requisition, proper showing of need for use on State business only, and proper showing of proof that all persons who will be driving the motor vehicle have valid drivers' licenses, to assign suitable transportation, either on a temporary or permanent basis, to any State employee or agency. An agency assigned a motor vehicle may not allow a person to operate that motor vehicle unless that person displays to the agency and allows the agency to copy that person's valid driver's license. Notwithstanding G.S. 20-30(6), persons or agencies requesting assignment of motor vehicles may photostat or otherwise reproduce drivers' licenses for purposes of complying with this subpart.

As used in this subpart, 'suitable transportation' means the standard vehicle in the State motor fleet, unless special towing provisions are required by the employee or agency. The Department may not assign any employee or agency a motor vehicle that is not suitable. The Department shall not approve requests for vehicle assignment or reassignment when the purpose of that assignment or reassignment is to provide any employee with a newer or lower mileage vehicle because of his or her rank, management authority, or length of service or because of any non-job-related reason. The Department shall not assign 'special use' vehicles, such as four-wheel drive vehicles or law enforcement vehicles, to any agency or individual except upon written justification, verified by historical data, and accepted by the Secretary.

6. To allocate and charge against each State agency to which transportation is furnished, on a basis of mileage or of rental, its proportionate part of the cost of maintenance and operation of the motor pool.

The amount allocated and charged by the Department of Administration to State agencies to which transportation is furnished shall be at least as follows:

- I. Pursuit vehicles and full size ~~4-wheel~~ four-wheel drive vehicles – \$.24/mile.
 - II. Vans and compact ~~4-wheel~~ four-wheel drive vehicles – \$.22/mile.
 - III. All other vehicles – \$.20/mile.
7. To adopt, with the approval of the Governor, reasonable rules for the efficient and economical operation, maintenance, repair, and ~~replacement~~ replacement, as limited in paragraph 4. of this subdivision, of all state-owned motor vehicles under the control of the Department, and to enforce those rules; and to adopt, with the approval of the Governor, reasonable rules regulating the use of private motor vehicles upon State business by the officers and employees of State agencies, and to enforce those rules. The Department, with the approval of the Governor, may delegate to the respective heads of the agencies to which motor vehicles are permanently assigned by the Department the duty of enforcing the rules adopted by the Department pursuant to this paragraph. Any person who violates a rule adopted by the Department and approved by the

Governor is guilty of a misdemeanor, and upon conviction is punishable in the discretion of the court.

- 7a. To adopt with the approval of the Governor and to enforce rules and to coordinate State policy regarding (i) the permanent assignment of state-owned passenger motor vehicles and (ii) the use of and reimbursement for those vehicles for ~~commuting~~ the limited commuting permitted by this subdivision. For the purpose of this subdivision 7a, 'state-owned passenger motor vehicle' includes any state-owned passenger motor vehicle, whether or not owned, maintained or controlled by the Department of Administration, and regardless of the source of the funds used to purchase it. Notwithstanding the provisions of G.S. 20-190 or any other provisions of law, all state-owned passenger motor vehicles are subject to the provisions of this subdivision 7a; no permanent assignment shall be made and no one shall be exempt from payment of reimbursement for commuting or from the other provisions of this subdivision 7a except as provided by this subdivision 7a. Commuting, as defined and regulated by this subdivision, is limited to those specific cases in which the Secretary has received and accepted written justification, verified by historical data. The Department shall not assign any state-owned motor vehicle that may be used for commuting other than those authorized by the procedure prescribed in this subdivision.

A State-owned passenger motor vehicle shall not be permanently assigned to an individual who is likely to drive it on official business at a rate of less than ~~12,600 miles per year~~ 3,150 miles per quarter unless (i) the individual's duties are routinely related to public safety or (ii) the individual's duties are likely to expose him routinely to life-threatening situations. A State-owned passenger motor vehicle shall also not be permanently assigned to an agency that is likely to drive it on official business at a rate of less than ~~12,600 miles per year~~ 3,150 miles per quarter unless the agency can justify to the Division of Motor Fleet Management the need for permanent assignment because of the unique use of the vehicle. The Department of Administration shall verify, on a quarterly basis, that each motor vehicle has been driven at the minimum allowable rate. If it has not and if the department by whom the individual to which the car

is assigned is employed or the agency to which the car is assigned cannot justify the lower mileage for the quarter in view of the minimum annual rate, the permanent assignment shall be revoked immediately.

Every individual who uses a State-owned passenger motor vehicle, pickup truck, or van to drive between his official work station and his home, shall reimburse the State for these trips at a rate computed by the Department. This rate shall approximate the benefit derived from the use of the vehicle as prescribed by federal law. Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month. Reimbursement shall be made by payroll deduction. Funds derived from reimbursement on vehicles owned by the Motor Fleet Management Division shall be deposited to the credit of the Division; funds derived from reimbursements on vehicles initially purchased with appropriations from the Highway Fund and not owned by the Division shall be deposited in a Special Depository Account in the Department of Transportation, which shall revert to the Highway Fund; funds derived from reimbursement on all other vehicles shall be deposited in a Special Depository Account in the Department of Administration which shall revert to the General Fund. Commuting, for purposes of this paragraph, does not include those individuals whose office is in their home, as determined by the Department of Administration, Division of Motor Fleet Management. Also, this paragraph does not apply to the following vehicles: (i) clearly marked police and fire vehicles, (ii) delivery trucks with seating only for the driver, (iii) flatbed trucks, (iv) cargo carriers with over a 14,000 pound capacity, (v) school and passenger buses with over 20 person capacities, (vi) ambulances, (vii) hearses, (viii) bucket trucks, (ix) cranes and derricks, (x) forklifts, (xi) cement mixers, (xii) dump trucks, (xiii) garbage trucks, (xiv) specialized utility repair trucks (except vans and pickup trucks), (xv) tractors, (xvi) unmarked law-enforcement vehicles that are used in undercover work and are operated by full-time, fully sworn law-enforcement officers whose primary duties include carrying a firearm, executing search warrants, and making arrests, and (xvii) any other vehicle exempted

under Section 274(d) of the Internal Revenue Code of 1954, and Federal Internal Revenue Services regulations based thereon. The Department of Administration, Division of Motor Fleet Management, shall report quarterly to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office on individuals who use State-owned passenger motor vehicles, pickup trucks, or vans between their official work stations and their homes, who are not required to reimburse the State for these trips.

The Department of Administration shall revoke the assignment or require the Department owning the vehicle to revoke the assignment of a State-owned passenger motor vehicle, pick-up truck or van to any individual who:

- I. Uses the vehicle for other than official business except in accordance with the commuting rules;
- II. Fails to supply required reports to the Department of Administration, or supplies incomplete reports, or supplies reports in a form unacceptable to the Department of Administration and does not cure the deficiency within 30 days of receiving a request to do so;
- III. Knowingly and willfully supplies false information to the Department of Administration on applications for permanent assignments, commuting reimbursement forms, or other required reports or forms;
- IV. Does not personally sign all reports on forms submitted for vehicles permanently assigned to him and does not cure the deficiency within 30 days of receiving a request to do so;
- V. Abuses the vehicle; or
- VI. Violates other rules or policy promulgated by the Department of Administration not in conflict with this act.

A new requisition shall not be honored until the Secretary of the Department of Administration is assured that the violation for which a vehicle was previously revoked will not recur.

The Department of Administration, with the approval of the Governor, may delegate, or conditionally delegate, to the respective heads of agencies which own passenger

motor vehicles or to which passenger motor vehicles are permanently assigned by the Department, the duty of enforcing all or part of the rules adopted by the Department of Administration pursuant to this subdivision 7a. The Department of Administration, with the approval of the Governor, may revoke this delegation of authority.

Prior to adopting rules under this paragraph, the Secretary of Administration may consult with the Advisory Budget Commission.

8. To adopt and administer rules for the control of all state-owned passenger motor vehicles and to require State agencies to keep all records and make all reports regarding motor vehicle use as the Secretary deems necessary.
9. To acquire motor vehicle liability insurance on all State-owned motor vehicles under the control of the Department.
10. To contract with the appropriate State prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such State prison authorities and the Secretary, of prison labor for use in connection with the operation of a central motor pool and related activities.
11. To report annually to the General Assembly on any rules adopted, amended or repealed under paragraphs 3, 7, or 7a of this subdivision."

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—MOTOR FLEET MANAGEMENT/RETURN OF GENERAL FUND
INVESTMENT

Sec. 23. On April 1, 1992, the Department of Administration shall credit to the Office of State Treasurer, Nontax Revenues, the sum of \$2,000,000 and on June 15, 1992, the sum of \$1,500,000, unless the Department chooses to make a total payment of \$3,500,000 on April 1, 1992. These funds represent a partial return to the General Fund of its investment of \$5,100,000 in capital funds for the upgrading of the State motor fleet appropriated in Section 57 of Chapter 757 of the 1985 Session Laws.

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—APPALACHIAN REGIONAL FUNDS SUBGRANTS

Sec. 23.1. Of the federal funds received by the Department of Administration for the fiscal biennium 1991-93 under the Appalachian Regional Commission Consolidated Technical Assistance Grant, the Department shall subgrant no less than

fifty percent (50%) to eligible applicants whose service area or jurisdiction is wholly or partially located within counties of the Appalachian Region.

PART 9.—DEPARTMENT OF STATE TREASURER

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Guilford
—LOCAL GOVERNMENTS FUND COST OF LOCAL GOVERNMENT
COMMISSION

Sec. 24. G.S. 105-213, as amended by Section 7 of Chapter 325 of the 1991 Session Laws, reads as rewritten:

"§ 105-213. Appropriation to counties and municipalities; use of appropriation.

(a) There is annually appropriated from the General Fund to counties and municipalities the amount of revenue collected under this Article during the preceding fiscal year, plus an amount equal to forty percent (40%) of the tax collected on accounts receivable during the preceding fiscal year and less an amount equal to the costs during the preceding fiscal year of:

- (1) Refunds made during the fiscal year of taxes levied under this Article.
- (2) The Department of Revenue to collect and administer the taxes levied under this Article.
- (3) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.
- (4) The Property Tax Commission.
- (5) The Institute of Government in operating a training program in property tax appraisal and assessment.
- (6) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.

The appropriation shall be distributed by August 30 of each year. The appropriation shall be included in the Current Operations Appropriations Act.

To distribute the appropriation, the Secretary of Revenue shall keep a separate record by counties of the taxes collected under this Article and shall certify to the State Controller and to the State Treasurer the amount to be distributed to each county and municipality in the State. The State Controller shall then issue a warrant on the State Treasurer to each county and municipality in the amount certified.

The Secretary shall allocate the amount appropriated under this Article to the counties according to the county in which the taxes were collected. The Secretary shall then increase the amount allocable to each county by a sum equal to forty percent (40%) of the amount of tax on accounts receivable allocated to the county on the basis of collections. The amounts so allocated to each county shall in turn be divided between the county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. In dividing these amounts between each county and its municipalities, the Secretary shall treat taxes levied by a merged school administrative unit described in G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in which that part is located. For the purpose of computing the distribution of the intangibles tax to any

county and the municipalities located in the county for any year with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and municipalities therein, the Department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein.

The chairman of each board of county commissioners and the mayor of each municipality shall report to the Secretary of Revenue information requested by the Secretary to enable the Secretary to distribute the amount appropriated by this section. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in distributing the amount appropriated by this section. The amount distributed to each county and municipality shall be used by the county or municipality in proportion to property tax levies made by it for the various funds and activities of the county or municipality, unless the county or municipality has pledged the amount to be distributed to it under this section in payment of a loan agreement with the North Carolina Solid Waste Management Capital Projects Financing Agency. A county or municipality that has pledged amounts distributed under this section in payment of a loan agreement with the Agency may apply the amount the loan agreement requires.

(b) For purposes of this section, the term 'municipality' includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

PART 10.—DEPARTMENT OF REVENUE

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—NO GAS TAX ON GAS FOR STATE VEHICLES

Sec. 25. (a) Article 36 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-449A. Exemption of motor fuel used in State vehicles.

(a) Motor fuel purchased by the State for use in State-owned motor vehicles for State business is exempt from the excise tax levied by this Article if an invoice for the fuel stating the agency to whom the fuel was delivered, the price per gallon of the fuel excluding the tax, and the kind and quantity of fuel sold is furnished to the Secretary of Revenue. A person who holds a State contract for the sale of motor fuel to be used in State-owned motor vehicles for State business shall invoice motor fuel sold to the State for this purpose at the prevailing contract price, excluding the tax, and a person who does not hold a State contract for the sale of motor fuel to be used in State-owned motor vehicles for State business but who sells motor fuel for this purpose in quantities not

sufficient to require a State contract shall invoice motor fuel sold to the State at the lowest informal bid price, excluding the tax.

(b) A person authorized to sell motor fuel to the State who paid the tax levied by this Article on fuel sold to the State for use in State-owned motor vehicles for State business may obtain a refund of the tax paid on the fuel upon filing an application for refund with the Secretary of Revenue and attaching an invoice, containing the information required in subsection (a) of this section, to the refund application. Upon receipt of a proper application and invoice, the Secretary shall refund the amount of tax paid.

(c) A person who makes a false invoice or application for refund under this section shall be guilty of a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00), imprisonment for up to two years, or both."

(b) This section becomes effective August 1, 1991, and applies to sales made on or after that date.

PART 11.—OFFICE OF THE GOVERNOR

Requested by: Representatives Bowman, N.J. Crawford, Senators Basnight, Plyler
— COMPUTER RESERVE FUND

Sec. 26. (a) The funds appropriated in this Title to the Office of State Budget and Management for a Computer Reserve shall be used by the Office of State Budget and Management to address critical computer needs when no alternative source of funds is available. Critical computer needs for which Computer Reserve funds may be used pursuant to this section are defined as those needs that involve one or more of the following factors:

- (1) An explicit provision in federal or State law or rule, or a federal grant-in-aid condition, that can only be satisfied through investment in additional data processing equipment or software;
- (2) A failure or breakdown of existing equipment that substantially degrades current operations, when repair of existing equipment is uneconomical;
- (3) Research or instructional activity of an ongoing nature that serves a vital public interest whose continuation depends upon the acquisition of data processing equipment or software; and
- (4) A direct relationship between the proposed acquisition to ongoing maintenance or continued operation of existing minicomputers, minicomputer networks, mainframes, or mainframe networks, which renders the proposed acquisition essential to the existing system.

The Office of State Budget and Management shall submit a report showing disbursements from or encumbrances upon the Computer Reserve and the reasons for the disbursement or encumbrance to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Information Technology Commission at the conclusion of each quarter of each fiscal year of the 1991-93 fiscal biennium.

At the end of each fiscal year, unexpended funds in the Computer Reserve shall revert to the General Fund.

(b) Notwithstanding the provisions of G.S. 143-16.3, and G.S. 143-23(a1), State departments may use funds from any source available to them and may transfer funds from other line items in their budgets to purchase additional data processing equipment and software.

(c) This section does not apply to The University of North Carolina or its constituent institutions, the Department of Community Colleges, or the Department of Public Instruction.

Requested by: Representatives Nesbitt, Diamont, McAllister, Senator Martin of Guilford

—IDENTIFICATION OF POSITIONS, PROGRAMS, AND SALARY LINE ITEMS TO BE REDUCED

Sec. 27. (a) To effect the reductions in departmental budgets required by this Title for the 1991-93 fiscal biennium, the Office of State Budget and Management shall freeze all new hires for these departments on July 1, 1991, allow the departments 30 days to identify the positions, programs, and salary line items affected, and transfer the reductions to those line items from which positions will be eliminated.

(b) The positions identified pursuant to subsection (a) of this section shall remain vacant for the 1991-92 fiscal year and shall not be reported in the base budget requested by the departments for the 1992-93 fiscal year, shall remain as permanent cuts, and shall be abolished.

(c) The departments shall report, by August 15, 1991, to the appropriate House and Senate Appropriations subcommittees, to the chairmen of the House and Senate Appropriations Committees, and to the Joint Legislative Commission on Governmental Operations the particular line items in their departmental budgets that reflect the reductions required by this section.

(d) No positions in the Sickle Cell Activities of the Sickle Cell and Genetic Counseling Program of the Department of Environment, Health, and Natural Resources shall be subject to this section.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—RESERVE FOR LOCAL TAX REIMBURSEMENTS

Sec. 28. (a) There is created in the Office of State Budget and Management a special reserve to be known as the Reserve for Reimbursements to Local Governments and Shared Tax Revenues. Funds in the reserve shall be distributed to local governments as provided by statute.

(b) G.S. 105-113.82 reads as rewritten:

"§ 105-113.82. Appropriation of amount equal to part of beer and wine taxes.

(a) Amount, Method. – An amount equal to the following percentages of the net amount of excise taxes collected, during the period that ~~begins the preceding October 1 and ends September 30, began October 1, 1989, and ended September 30, 1990,~~ on the sale of malt beverages and wine, less the amount of the net proceeds credited to the

Department of Agriculture under G.S 105-113.81A, is annually appropriated from the General Fund to the counties and cities in which the retail sale of these beverages is authorized:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23 3/4%);
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount appropriated, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount appropriated, that portion to be determined on the basis of population. The amount of the appropriation to be distributed under subdivisions (1), (2), and (3) shall be computed separately.

(b) Reduction in Appropriation. – Where the sale of malt beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or county in which the sale of the beverage is authorized, the amount that would otherwise be appropriated to the city or county on the basis of population under subsection (a) shall be reduced in the same ratio that the area of the defined area bears to the total area of the city or county, unless the defined area is a city. If the defined area in a county is a city, the reduction in the amount that would otherwise be appropriated to the county under subsection (a) shall be based on population instead of area.

(c) Exception. – Notwithstanding subsection (a), in a county in which ABC stores have been established by petition, the amount appropriated shall be distributed as though the entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.

(d) Time. – The appropriation shall be distributed to cities and counties within 60 days after September 30 of each year.

(e) Population Estimates. – To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.

(f) City Defined. – As used in this section, the term 'city' means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. – Funds appropriated to a county or city under this section may be used for any public purpose.

(h) Act. – The appropriation made by this section shall be included in the Current Operations Appropriations Act."

(c) G.S. 105-116(d) reads as rewritten:

"(d) Appropriation. There is annually appropriated from the General Fund to each municipality an amount that equals three and nine hundredths percent (3.09%) of the

taxable gross receipts derived, from ~~April 1 of the preceding fiscal year to the following March 31, April 1, 1990, to March 31, 1991,~~ by an electric power company and a natural gas company from sales within the municipality of the commodities and services described in subsection (a). The Secretary of Revenue shall transfer the amount appropriated to a municipality in quarterly installments on or before September 15, December 15, March 15, and June 15 ~~based on in proportion to~~ the taxable gross receipts derived within the municipality during the preceding calendar quarter. If a company's report does not state the company's taxable gross receipts derived within a municipality, the Secretary of Revenue shall determine a practical method of allocating part of the company's taxable gross receipts to the municipality. Before transferring the amount appropriated by this subsection, the Secretary of Revenue shall certify the amount to be transferred distributed to the State Controller. The appropriation made by this subsection shall be included in the Current Operations Appropriations Act.

As used in this subsection, the term 'municipality' includes an urban service district defined by the governing board of a consolidated city-county. The amount due an urban service district shall be distributed to the governing board of the consolidated city-county."

(d) G.S. 105-120(c) reads as rewritten:

"(c) Appropriation. There is annually appropriated from the General Fund to each municipality an amount that equals three and nine hundredths percent (3.09%) of the taxable gross receipts derived, from ~~April 1 of the preceding fiscal year to the following March 31, April 1, 1990, to March 31, 1991,~~ from local telecommunications service provided within the municipality. The Secretary of Revenue shall transfer the amount appropriated to a municipality in quarterly installments on or before September 15, December 15, March 15, and June 15 ~~based on in proportion to~~ the taxable gross receipts derived within the municipality during the preceding calendar quarter. If a company's report does not state the company's taxable gross receipts derived within a municipality, the Secretary of Revenue shall determine a practical method of allocating part of the company's taxable gross receipts to the municipality. Before transferring the amount appropriated by this subsection, the Secretary of Revenue shall certify the amount to be transferred to the State Controller. The appropriation made by this subsection shall be included in the Current Operations Appropriations Act.

As used in this subsection, the term 'municipality' includes an urban service district defined by the governing board of a consolidated city-county. The amount due an urban service district shall be distributed to the governing board of the consolidated city-county."

(e) G.S. 105-164.44C reads as rewritten:

"§ 105-164.44C. Reimbursement for sales taxes on food stamp foods and supplemental foods.

~~As soon as practicable after July 1 of each year, the Secretary shall determine from available information~~ There is annually appropriated to each county and the cities in the county an amount equal to the amount of local sales taxes that would have been collected in each the county during the preceding 1989-90 fiscal year on foods purchased with food stamp coupons or supplemental food instruments in the county,

had these foods not been exempt from tax under G.S. 105-164.13(38). The Secretary shall ~~then~~ distribute the amounts determined to be due each county between the county and the cities located in the county in accordance with the method by which local sales and use taxes are distributed in that county. In order to pay for the reimbursement under this section and the cost to the Department of Revenue for administering the reimbursement, the Secretary of Revenue shall draw from the Local Government Tax Reimbursement Reserve an amount equal to the amount of the reimbursement and the cost of administration."

(f) G.S. 105-198 reads as rewritten:

"§ 105-198. Intangible personal property.

The intangible personal properties enumerated and defined in this Article are classified under authority of Section 2(2), Article V of the North Carolina Constitution. The taxes are levied for the purposes stated in this ~~Article-Subchapter.~~"

(g) G.S. 105-213, as amended by Section 7 of Chapter 325 of the 1991 Session Laws, reads as rewritten:

"§ 105-213. Appropriation to counties and municipalities; use of appropriation.

(a) There is annually appropriated from the General Fund to counties and municipalities the net amount of revenue collected under this Article during the ~~preceding-1989-90~~ fiscal year, plus an amount equal to forty percent (40%) of the tax collected on accounts receivable during the ~~preceding-1989-90~~ fiscal year and less an amount equal to the costs during the preceding fiscal year of:

- (1) Refunds made during the fiscal year of taxes levied under this Article.
- (2) The Department of Revenue to collect and administer the taxes levied under this Article.
- (3) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.
- (4) The Property Tax Commission.
- (5) The Institute of Government in operating a training program in property tax appraisal and assessment.

The appropriation shall be distributed by August 30 of each year. The appropriation shall be included in the Current Operations Appropriations Act.

The appropriation shall be allocated among the counties in proportion to the amount of taxes collected under this Article in each county during the preceding fiscal year. ~~To distribute the appropriation, the~~ The Secretary of Revenue shall keep a separate record by counties of the taxes collected under this Article and shall certify to the State Controller and to the State Treasurer the amount to be distributed to each county and municipality in the State. The State Controller shall then issue a warrant on the State Treasurer to each county and municipality in the amount certified. ~~Article.~~ The Secretary shall allocate the amount appropriated under this Article-section to the counties according to the county in which the taxes were collected. The Secretary shall then increase the amount allocable to each county by a sum equal to forty percent (40%) of the amount of tax on accounts receivable allocated to the county on the basis of collections. ~~The amounts so allocated to each county shall in turn be divided~~ allocated between the county and the municipalities in the county in proportion to the total

amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. In dividing these amounts between each county and its municipalities, the Secretary shall treat taxes levied by a merged school administrative unit described in G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in which that part is located. After making these allocations, the Secretary of Revenue shall certify to the State Controller and to the State Treasurer the amount to be distributed to each county and municipality in the State. The State Controller shall then issue a warrant on the State Treasurer to each county and municipality in the amount certified. The amount based on forty percent (40%) of the tax collected on accounts receivable shall be drawn from the Local Government Tax Reimbursement Reserve and the amount based on the net amount of revenue collected under this Article shall be drawn from the Local Government Tax Sharing Reserve.

For the purpose of computing the distribution of the intangibles tax to any county and the municipalities located in the county for any year with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and municipalities therein, the Department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein.

The chairman of each board of county commissioners and the mayor of each municipality shall report to the Secretary of Revenue information requested by the Secretary to enable the Secretary to ~~distribute~~ allocate the amount appropriated by this section. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in ~~distributing~~ allocating the amount appropriated by this section. The amount distributed to each county and municipality shall be used by the county or municipality in proportion to property tax levies made by it for the various funds and activities of the county or municipality, unless the county or municipality has pledged the amount to be distributed to it under this section in payment of a loan agreement with the North Carolina Solid Waste Management Capital Projects Financing Agency. A county or municipality that has pledged amounts distributed under this section in payment of a loan agreement with the Agency may apply the amount the loan agreement requires.

(b) For purposes of this section, the term 'municipality' includes any urban service district defined by the governing board of a consolidated city-county, and the amounts due thereby shall be distributed to the government of the consolidated city-county."

(h) G.S. 105-213.1 reads as rewritten:

"§ 105-213.1. Additional appropriation to counties and municipalities.

(a) Appropriation. – As soon as practicable after July 1 of 1986, the Secretary of Revenue shall allocate for distribution to each county and the municipalities located in the county the amount allocated to that county from taxes levied under G.S. 105-199, 105-200, and 105-205 for the last taxable year in which these taxes were levied, plus or

minus a sum that equals the product of this amount and the percentage by which State disposable personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

Thereafter, by August 30 of ~~each year, 1987, 1988, 1989, and 1990,~~ the Secretary shall allocate to each county the amount of funds allocated to the county under this section the preceding year, plus or minus a sum that equals the product of this amount and the percentage by which State disposable personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

Thereafter, by August 30 of each year, the Secretary shall allocate to each county the amount of funds allocated to the county under this section in 1990.

Amounts allocated to a county under this section shall in turn be divided and distributed between the county and the municipalities located in the county in accordance with the method of allocating intangible tax revenue between a county and the municipalities located in the county provided in G.S. 105-213.

(b) Restrictions on Use. – Amounts distributed to a county or a municipality under this section are subject to the same restrictions as amounts distributed under G.S. 105-213.

(c) Municipality Defined. – As used in this section, the term 'municipality' has the same meaning as in G.S. 105-213.

(d) Source. – Funds distributed under this section shall be drawn from the Local Government Tax Reimbursement Reserve."

(i) G.S. 105-277A(b) reads as rewritten:

"(b) First Per Capita Distribution. – As soon as practicable after January 1 of 1989, the Secretary shall distribute to each taxing unit the unit's per capita share of the sum of fifteen million seven hundred forty-five thousand dollars (\$15,745,000). Thereafter, as soon as practicable after January 1 of ~~each year 1990 and 1991,~~ the Secretary shall distribute to each taxing unit the unit's per capita share of an amount equal to the sum distributed to all taxing units the previous year under this subsection plus or minus the product of the sum distributed the previous year and the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

Thereafter, as soon as practicable after January 1 of each year the Secretary shall distribute to each taxing unit the unit's per capita share of the sum that this subsection provided was to be distributed to all taxing units in 1991.

To make the per capita distributions required by this subsection, the Secretary shall first allocate the sum to be distributed among the counties on a per capita basis. The Secretary shall then compute a per capita distributable amount for each county by dividing the amount allocated to a county by the total population of the county, plus the population of any incorporated towns and cities located in the county. Each taxing unit

in a county, including the county itself, shall receive the product of the population of the taxing unit and the per capita distributable amount for that county.

A city or county that receives funds under this subsection and that collects taxes for another taxing unit shall distribute part of the taxes received by it to the taxing unit for which it collects tax. The distribution shall be made on the basis of the proportionate amount of ad valorem taxes levied, for the most recent fiscal year beginning July 1, by the city or county and by all the taxing units for which the city or county collects tax. This distribution shall be made as soon as practicable after a city or county receives funds from the State under this section."

(j) G.S. 105-277A(f) reads as rewritten:

"(f) Source of Funds. —~~The Secretary of Revenue shall~~ To pay for the distribution required by this section and the cost of making the distribution as follows:

(1) ~~For the distribution made in 1989, the Secretary shall draw an amount equal to the amount distributed and the cost of making the distribution first from the Inventory Tax Reimbursement Fund created in Section 15.1 of the School Facilities Finance Act of 1987, until it is exhausted, and then the remainder of that amount from collections received by the Department under Division I of Article 4 of this Chapter.~~

(2) ~~For distributions made in subsequent years,~~ distribution, the Secretary shall draw from the Local Government Tax Reimbursement Reserve ~~for the distribution required by this section~~ an amount equal to the amount distributed and the cost of making the distribution."

(k) G.S. 105-277.1A reads as rewritten:

"§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.

(a) ~~On September 4 of each year, 1, 1990,~~ the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list, and shall all be on a form prescribed by the Secretary of Revenue.

(b) In addition to the list required by subsection (a) of this section, the county or city may provide a supplemental list on December 1.

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of the list required by this section.

(d) ~~After receiving a certified list under subsections (a) through (c) of this section, Before May 31, 1991,~~ the Secretary of Revenue ~~shall, within 60 days, pay shall distribute~~ to the county or city fifty percent (50%) of the total for the entire list of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this section in 1991 the amount it was entitled to receive in 1991.

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue ~~for~~ of administering the reimbursement, the Secretary of Revenue shall draw from the Local Government Tax Reimbursement Reserve an amount equal to the reimbursement and the cost of administration."

PART 12.—OFFICE OF THE STATE CONTROLLER

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford
—STATE INFORMATION PROCESSING SYSTEM'S AMENDED RATE
SCHEDULE

Sec. 29. The Office of the State Controller shall adopt an amended rate schedule that will reduce rates for the 1991-93 fiscal biennium to agencies for data processing and data processing related services by five percent (5%) below what the same agencies were charged for the 1990-91 fiscal year.

The rates set by this amended rate schedule shall not be increased during the 1991-93 fiscal biennium.

PART 13.—GENERAL ASSEMBLY

Requested by: Representatives Bowman, N. J. Crawford, Senator Martin of Guilford
—STUDY COMMISSION ON COMPUTER SERVICES

Sec. 30. (a) There is created a Computer Services Study Commission, an independent commission, to study the organization, management, and cost of State computer services. The Commission shall consist of twelve members. The Speaker of the House of Representatives shall appoint six members, four who shall be members of the House of Representatives and two who shall have a background in and familiarity with information systems or data communications. The President Pro Tempore of the Senate shall appoint six members, four who shall be members of the Senate and two who shall have a background in and familiarity with information systems or data communications. Initial appointments shall be made within 30 days following adjournment of the 1991 Session of the General Assembly for a period of more than 10 days. Members of the Study Commission shall not be employed by, provide consulting services to, or serve on the board of directors or other governing body of any information systems, computer hardware, or telecommunications enterprise currently doing business with the State of North Carolina. Vacancies shall be filled by the official who made the initial appointment using the same criteria as provided by this subsection.

(b) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a cochair of the Commission from their appointees. The cochairs shall call the first meeting and preside at alternate meetings.

(c) The Study Commission on Computer Services shall examine the functions, powers, and effectiveness of the Information Technology Commission, the organization and operation of the State Information Processing Service, the processes by which long term plans for computer applications are devised and approved, the policies and practices applied to hardware and software procurement, and such other issues as may, in the judgment of the Commission, relate to the cost of computer usage in State government.

(d) Subject to the approval of the Legislative Services Commission, the professional and clerical staff of the Legislative Services Office shall be available to the Study Commission. Upon request of the Study Commission or its staff, all State departments and agencies shall furnish to the Study Commission any information in their possession or available to them. The Study Commission may acquire by contract or purchase such other expertise or information as may be necessary to complete its report.

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

(f) Of the funds appropriated from the General Fund to the General Assembly, the sum of \$10,000 for the 1991-92 fiscal year and the sum of \$20,000 for the 1992-93 fiscal year shall be allocated for this study.

(g) The Study Commission on Computer Services shall report its findings and recommendations to the General Assembly upon the convening of the 1993 Session.

Requested by: Representatives Bowman, N.J. Crawford, Huffman, Senator Martin of Guilford

—LEGISLATIVE SERVICES COMMISSION/REVIEW OF METHODS TO ENCOURAGE AND REWARD EMPLOYEE LONGEVITY

Sec. 30.1. The Legislative Services Commission shall review various methods of encouraging and rewarding employee longevity and superior performance.

PART 14.—PUBLIC SCHOOLS

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren

—CONSOLIDATE SCHOOL ADMINISTRATOR ALLOTMENTS

Sec. 31. The State Board of Education shall consolidate the allotment of assistant and associate superintendents and supervisors and shall convert the allotment from a position allotment to a dollar allotment.

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren

—DRIVER TRAINING PROGRAM

Sec. 32. (a) G.S. 20-88.1 reads as rewritten:

"§ 20-88.1. Driver training and safety education.

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all persons of provisional license age. ~~This program shall be made available to all physically and mentally qualified persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age, who~~ (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose. ~~The drivers' driver education program established pursuant to this section shall include instructions on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the 'international symbol of accessibility' and other symbols and devices as provided in Article 2A of this Chapter. In addition, this program shall include at least six hours of instruction on the offense of driving while impaired and related subjects.~~

(b) ~~The State Board of Education shall adopt a salary schedule range for Driver's Education Training Instructors. driver education instructors who are public school employees and who do not hold teacher certificates.~~

Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education. No educational degree requirement may be a criterion used in setting salaries. The State Board of Education shall report the salary schedule and criteria developed for a drivers' education program to the 1983 General Assembly, Second Session 1984.

(b1) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates.

(c) All expenses incurred by the State in carrying out the provisions of this section shall be paid out of the ~~General Highway Fund.~~"

(b) G.S. 115C-215 reads as rewritten:

"§ 115C-215. Instruction in driver training and safety education.

There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be noncredit courses taught by instructors ~~approved by the Department of Public Instruction. who meet the~~

requirements established by the State Board of Education. Instructors shall not be required to hold teacher certificates."

(c) G.S. 115C-216 reads as rewritten:

"§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.

(a) ~~Course of Training and Instruction Required in Public High Schools. – The State Board of Education and local boards of education are hereby required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles and to make such courses available for all persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age whose physical and mental qualifications meet license requirements, in conformance with course requirements and funds made available under the provisions of G.S. 20-88.1 or as hereinafter provided or both vehicles, in accordance with G.S. 20-88.1.~~

(b) ~~Inclusion of Expense in Budget. – The local boards of education of every local school administrative unit are hereby authorized to include as an item of instructional service and as a part of the current expense fund of the budget of the several high schools under their supervision, the expense necessary to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles.~~

(c) ~~Appropriations.—The boards of county commissioners in the several counties of the State and the governing bodies of all municipalities having power to appropriate and raise money by taxation and otherwise are hereby authorized to appropriate funds necessary to pay the expenses necessary to install and maintain in any public high school under their supervision a course of training and instruction for eligible students in such schools in the operation of motor vehicles, whether or not the county board of education or administrative unit shall have included the cost of the same in its budget request when submitted for approval.~~

(d) ~~How Moneys Appropriated May Be Provided.—The board of county commissioners and the governing bodies of all municipalities having power to appropriate money and to levy taxes and raise money are hereby authorized to allocate and expend the moneys appropriated pursuant to this section or other acts of the General Assembly and the moneys provided by taxation, by sale or rental of any real or personal property owned by such county or other taxing unit, or by use of any surplus funds on hand or acquired from any source, for the purpose of funding any such course of instruction and training in any public high school. The special approval of the General Assembly is hereby given for the levying of taxes for such purpose and for providing funds for such purpose by the other means herein mentioned.~~

(e) ~~Content of Course; What Persons Eligible.—The words "a course of training and instruction for eligible persons in the operation of motor vehicles" as applied to this section means such course of instruction in the operation of motor vehicles prescribed or approved by the Department of Public Instruction, provided that every such course shall include actual operation of motor vehicles by the persons eligible for same, under the supervision of a qualified instructor. Only such persons older than 14 years and six~~

~~months, who are approved by the principal of the school, shall be eligible for such course of instruction, subject to rules and regulations prescribed by the Department of Public Instruction.~~

~~(f) Acts Ratified and Confirmed. — The acts of all boards of county commissioners and the governing bodies of all municipalities, the acts of all local boards of education, and the acts of the State Board of Education heretofore done in connection with providing courses of training and instruction in the operation of motor vehicles in this State, including the appropriation and expenditure of funds for such purpose, are hereby ratified and confirmed."~~

(d) The State Board of Education shall convert the allotments of funds for months of employment for driver education instructors and for loan car fees to dollar allotments. Dollar allotments shall not exceed funds appropriated by the General Assembly for this purpose.

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren
—COMMUNITY SCHOOLS FUNDS

Sec. @. The State board of education shall allocate community schools funds on a per county basis. If a county contains more than one local school administrative unit, the community schools funds allotted for the county shall be prorated on the basis of average daily membership to each school unit within a county; provided, that these funds may be combined in a manner agreed upon by all units in the county as the most effective use.

Each county shall receive the same amount that a county school administrative unit received for this purpose for the 1990-91 fiscal year. If community schools funds are not adequate to fund this allocation fully for the 1991-92 fiscal year, the State Board of Education shall use funds from aid to local school administrative units for this purpose.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—DROPOUT PREVENTION/IN-SCHOOL SUSPENSION

Sec. 33. Of the funds appropriated to the Department of Public Education for aid to local school administrative units for the Dropout Prevention/In-School Suspension Program, the sum of \$200,000 for each fiscal year of the 1991-93 fiscal biennium may be used to fund eight pilot public/private educational compacts to bring together on an ongoing basis representatives from public education, community colleges, higher education, and business and industry to determine how to improve attendance, prevent dropping out of school, increase academic performance, and increase participation in higher education and the work force by at-risk students. The funds may also be used to fund eight parental involvement pilot programs, and to provide for operating costs, workshops, and committee meetings for the State Department of Public Instruction's dropout prevention staff.

The State Board of Education may adopt rules governing the use of these funds. These funds are to be part of the continuation budget in the next fiscal biennium.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—DROPOUT PREVENTION COORDINATORS

Sec. 34. Of the funds appropriated to the Department of Public Education for aid to local school administrative units for dropout prevention, the State Board of Education shall allocate to the Department of Public Instruction up to \$225,000 for the 1991-92 fiscal year and up to \$225,000 for the 1992-93 fiscal year for the three dropout prevention coordinators. The State Superintendent shall assign the dropout prevention coordinators to designated areas within the State and shall develop job descriptions for them. These funds are to be part of the continuation budget in the next biennium.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—PROJECT TEACH FUNDS

Sec. 35. Of the funds appropriated to the Department of Public Education for the 1991-93 fiscal biennium for aid to local school administrative units, the State Board of Education shall allocate to the Department of Public Instruction \$73,000 for the 1991-92 fiscal year and \$73,000 for the 1992-93 fiscal year to be used to:

- (1) Maintain the Project Teach Initiative in the Robeson, Pitt, Cumberland, Warren, Halifax, Guilford, Vance, Northampton, Anson and Bertie County Schools, and the Durham, High Point, and Greensboro City Schools.
- (2) Expand the project in at least two school systems to focus on parents of students in the seventh grade so as to involve parents in the coaching and support of promising minority young people.

These funds are to be part of the continuation budget in the next fiscal biennium.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—ADVANCED TRAINING FOR FOREIGN LANGUAGE TEACHERS

Sec. 36. Of the funds appropriated to the Department of Public Education for aid to local school administrative units, the State Board of Education may allocate to the Department of Public Instruction \$300,000 each year of the 1991-93 biennium for two positions, support expenses, and workshops to provide intensive advanced training for teachers who teach foreign languages.

Requested by: Representatives J.W. Crawford, Hardaway, H. Hunter, Fussell, Payne, Barnes, Senators Ward, Warren

—CONTINUE MODEL TEACHER EDUCATION CONSORTIUM

Sec. 36.1. Of the funds appropriated to the Department of Public Education for the 1991-92 fiscal year for aid to local school administrative units, the State Board of Education shall use \$150,000 for the 1991-92 fiscal year for the model teacher education consortium established in Section 72 of Chapter 752 of the 1989 Session Laws. Of these funds, up to \$30,000 may be used for administrative purposes.

Requested by: Representatives Fussell, Payne, Barnes, Senators Cooper, Ward
—FUNDING FOR CITY SCHOOL SYSTEMS

Sec. 37. (a) If two or more local school administrative units are consolidated and merged into one unit, the allotments of the following positions shall not be less than those same allotments to the separate units for the first and second full fiscal years of the consolidation and merger and shall be used for the continuation of the positions and programs, except as specifically authorized by the State Board of Education: (i) superintendents, (ii) associate and assistant superintendents, (iii) supervisors, and (iv) maintenance supervisors.

(b) Effective upon ratification of this act, Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-68.1. Merger of units by the board of commissioners.

(a) The board of commissioners of a county in which two or more local school administrative units are located, but all are located wholly within the county, may adopt a plan for the consolidation and merger of the units into a single countywide unit.

The plan adopted under this subsection shall require that the county adopting the plan provide local funding per average daily membership to the resulting local school administrative unit for subsequent years of at least the highest level of any local school administrative unit in the county during the preceding five fiscal years before the merger.

The board of commissioners shall forward a copy of the plan it adopts to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(b) The boards of commissioners of two counties in which one local school administrative unit is located in both counties may jointly adopt plans for each of their counties, including a plan of consolidation and merger for such unit that is located in more than one county. The results of such consolidation and merger shall be that there is only one countywide local school administrative unit in each county, or that the entirety of the unit located within two counties is merged and consolidated with the county unit of one of the two counties. Such plans shall also merge and consolidate any other city school administrative unit located wholly within one of the two counties. Within the two-county area, all the plans shall take effect on the same day.

The plans jointly adopted under this subsection shall require that the counties jointly adopting the plans provide local funding per average daily membership to the resulting local school administrative units for subsequent fiscal years of at least the highest level of any local school administrative unit being merged during the preceding five fiscal years before the merger.

The boards of commissioners of each of the two counties shall forward copies of the plans they adopt to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(c) The plans under this section shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, or G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval of the voters.

(d) For the purpose of this section, local funding per average daily membership means the budgeted local expense per average daily membership. The State Board of Education shall establish guidelines for the computation of this amount and the amount shall be set out in the plan for consolidation and merger.

(e) If the State Board of Education fails to approve a plan submitted to it under this section, such failure to approve does not preclude the approval of the plan by the General Assembly by local act."

(c) Effective upon ratification of this act, Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-68.2. Merger of units by the local boards of education.

If a city board of education notifies the State Board of Education that it is dissolving itself, the State Board of Education shall adopt a plan of consolidation and merger of that city school administrative unit with the county school administrative unit in the county in which the city unit is located; provided, however, if a city school administrative unit located in more than one county notifies the State Board of Education that it is dissolving itself, the State Board shall adopt a plan that divides the city unit along the county line and consolidates and merges the part of the city unit in each county with the county unit in that county and the plans shall take effect on the same day. The plans shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, and G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education and the boards of commissioners shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval by the voters."

(d) No liability for any supplemental school tax levied under local act or G.S. 115C-501 to G.S. 115C-511 that attached prior to the date on which a levy is discontinued pursuant to a plan for merger for local school administrative units under G.S. 115C-68.1 or G.S. 115C-68.2 is discharged as a result of the repeal, and no right to a refund of tax that accrued prior to the effective date on which a levy is discontinued may be denied as a result of the repeal.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—PUPIL TRANSPORTATION PROGRAM IMPROVEMENTS

Sec. 38. The Department of Public Instruction shall implement the Pupil Transportation Program Improvements Implementation Projects authorized by Section 55 of Chapter 752 of the 1989 Session Laws. The Department of Public Instruction may use up to \$400,000 of the funds appropriated for the 1991-92 fiscal year for aid to local school administrative units for pupil transportation in order to replace computer equipment located in the 100 county school bus garages and in the Department of Public Instruction, as required by the State Fleet Vehicle Management System, and for other purposes required for the implementation of the projects authorized by the 1989 Session.

The Department shall report to the Joint Legislative Commission on Governmental Operations in March of 1992 on the implementation of the projects specified in this section.

Requested by: Representatives Fussell, Payne, Barnes, Diamont, Nesbitt, Senators Ward, Warren

—APPROPRIATION OF FUNDS FROM STATE LITERARY FUND

Sec. 39. There is appropriated from the State Literary Fund to the Department of Public Education the sum of \$2,500,000 for the 1991-92 fiscal year for aid to local school administrative units.

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren

—ALLOCATION OF FUNDS FOR MERGED CAREER LADDER PILOT PROJECTS

Sec. 39.1. Any career ladder pilot project in a school unit that has resulted from a merger of school units subsequent to July 1, 1991, may be modified by the local school board, upon the recommendation of the State Superintendent of Public Instruction and with the approval of the State Board of Education. For the fiscal year of the merger through the 1993-94 fiscal year, the merged unit shall receive (i) the amount of funds that was previously allocated to the particular pilot project by the State Board of Education and (ii) the amount of funds it is entitled to receive to administer the School Accountability Act of 1989 pursuant to this act, for the portion of the merged unit that did not participate in the pilot project.

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren

—REMOVE LIMITATION ON UNIFORM EDUCATION REPORTING SYSTEM FINES

Sec. 39.2. G.S. 115C-438 reads as rewritten:

"§ 115C-438. Provision for disbursement of State money.

The deposit of money in the State treasury to the credit of local school administrative units shall be made in monthly installments, and additionally as necessary, at such time and in such a manner as may be most convenient for the operation of the public school system. Before an installment is credited, the school finance officer shall certify to the State Board of Education the expenditures to be made by the local school administrative unit from the State Public School Fund during the month. This certification shall be filed on or before the fifth day following the end of the month preceding the period in which the expenditures will be made. The State Board of Education shall determine whether the moneys requisitioned are due the local school administrative unit, and upon determining the amount due, shall cause the requisite amount to be credited to the local school administrative unit. Upon receiving notice from the State Treasurer of the amount placed to the credit of the local school administrative unit, the finance officer may issue State warrants up to the amount so certified.

The State Board of Education may withhold money for payment of salaries for administrative officers of local school administrative units if any report required to be filed with State school authorities is more than 30 days overdue. The State Board of Education shall withhold money for payment of salaries for the superintendent, finance

officer, and all other administrative officers charged with providing payroll information pursuant to G.S. 115C-12(18), if the local school administrative unit fails to provide the payroll information to the State Board in a timely fashion and substantially in accordance with the standards set by the State Board; ~~provided, however, the maximum amount withheld from any local school administrative unit shall be twenty-five thousand dollars (\$25,000).~~ Board.

Money in the State Public School Fund and State bond moneys shall be released only on warrants drawn on the State Treasurer, signed by such local official as may be required by the State Board of Education."

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren
—PAYMENT OF TEACHERS IN YEAR-ROUND SCHOOLS

Sec. 39.3. (a) G.S. 115C-302(a) reads as rewritten:

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

Teachers paid State funds shall be paid as follows:

- (1) Academic Teachers. – Regular state-allotted teachers shall be employed for a period of 10 calendar months. Salary payments to regular state-allotted teachers shall be made monthly at the end of each calendar month of service: Provided, that teachers employed for a period of 10 calendar months in year-round schools shall be paid in 12 equal installments: ~~Provided,~~ Provided further, that any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said local school administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months. Included within the 10 calendar months employment shall be annual vacation leave at the same rate provided for State employees, computed at one twelfth (1/12) of the annual rate for State employees for each calendar month of employment; which shall be provided by each local board of education at a time when students are not scheduled to be in regular attendance. Included within the 10 calendar months employment each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement

weather, a teacher may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. Within policy adopted by the State Board of Education, each local board of education shall develop rules and regulations designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of state-allotted teachers during said period, but in no event shall the total number of workdays exceed 200 days. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule.

- (2) Occupational Education Teachers. – State-allotted months of employment to local boards of education as provided by the State Board of Education shall be used for the employment of teachers of occupational education for a term of employment as determined by the local boards of education. Salary payments to these occupational education teachers shall be made monthly at the end of each calendar month of service: Provided, that local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter: Provided further, that teachers employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments: ~~Provided,~~ Provided further, that any individual teacher employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit. Included within their term of employment shall be the same rate of annual vacation leave and legal holidays provided under the same conditions as set out in subdivision (1) above, but in no event shall the total workdays for a 10-month employee exceed 200 days in a 10-month schedule and the workweek shall constitute five days for all occupational teachers regardless of the employment period.

Occupational education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual leave days designated in the school calendar and take those annual leave days during the 11th or 12th month of employment.

No deductions shall be made from salaries of teachers of vocational agriculture and home economics whose salaries are paid in part from State and federal vocational funds while in attendance upon community, county and State meetings called for the specific purpose of promoting the agricultural interests of North Carolina, when such attendance is approved by the superintendent of the administrative unit and the State Director of Vocational Education.

- (3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual vacation leave earned by a teacher during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Teachers may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any teachers with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the teacher will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.
- (4) Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.
- (5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
- (6) The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service shall be allowed experience increments for the period of such service as

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

(b) G.S. 115C-316(a) reads as rewritten:

"(a) School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as state-allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

- (1) Employees Other than Superintendents, Supervisors and Classified Principals on an Annual Basis. – Salary payments to employees other than superintendents, supervisors, and classified principals employed on an annual basis shall be made monthly at the end of each calendar month of service. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.
- (2) School Employees Paid on an Hourly or Other Basis. – Salary payments to employees other than those covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), 115C-302(a)(1) and (2), and 115C-316(a)(1) shall be made at a time determined by each local board of education. Expenditures for the salary of these employees from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that school employees employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments: ~~Provided, Provided further,~~ that any individual school employee employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall

not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees.

- (3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees will be upon the authorization of their immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.
- (4) Twelve-month school employees other than superintendents, supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual

vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any employee with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

- (5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars (\$50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
- (6) Each local board of education shall sustain any loss by reason of an overpayment to any school official or other employee paid from State funds.")

PART 15.—COMMUNITY COLLEGES

Requested by: Representatives Payne, Fussell, Senator Ward

—MAINTENANCE OF PLANT

Sec. 40. (a) Notwithstanding any provision of law to the contrary, any community college that has an out-of-county student head count served on the main campus of the college in excess of fifty percent (50%) of the total student head count as defined by the State Board of Community Colleges shall be provided funds for the purpose of "operations of plant". These funds shall not exceed eighty-five percent (85%) of the funds allocated to these colleges during the 1990-91 fiscal year for this purpose.

- (b) This section becomes effective July 1, 1992.

Requested by: Representatives Payne, Fussell, Senator Ward

—BUDGET FLEXIBILITY

Sec. 41. The State Board of Community Colleges shall establish budget guidelines that grant to the individual institutions maximum budget flexibility to accomplish the budget reductions assigned to them by the State Board for the 1991-93 fiscal biennium. These guidelines shall allow transfers of all operating funds, except from literacy funds and the Human Resources Development Program, between line items and program areas. These guidelines shall also require that, to the extent possible, reductions shall be taken in administrative costs rather than from instructional costs.

The State Board is not required to make budget reduction allocations on a pro rata basis and may specify various programs for reduction.

The State Board shall require each college to submit a plan assuring a balanced educational program that meets statewide priorities.

The State Board shall report to the Regular 1992 Session of the 1991 General Assembly on these guidelines and on the implementation of these guidelines by each institution.

Requested by: Representatives Payne, Fussell, Senator Ward

—OPERATING APPROPRIATIONS/NOT USED FOR RECREATION
EXTENSION

Sec. 42. Funds appropriated in the 1991-93 fiscal biennium to the Department of Community Colleges as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis, and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

Requested by: Representatives Payne, Fussell, Senator Ward

—FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY
COLLEGES

Sec. 43. For the purpose of determining the community college system-wide number of full-time equivalent (FTE) teaching positions each year, the total curriculum full-time equivalent student enrollment shall be divided by the appropriate number for each year of the 1991-93 fiscal biennium pursuant to funds appropriated in this act for this purpose. The occupational extension full-time equivalent student enrollment shall be divided by 23 for the 1991-92 fiscal year and by 23 for the 1992-93 fiscal year.

Requested by: Representatives Payne, Fussell, Senator Ward

—TUITION/PUBLIC SCHOOL STUDENTS TAKING COMMUNITY COLLEGE
COURSES

Sec. 44. G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-

time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department of Correction's Division of Adult Probation and Parole and employees of the Division of Youth Services of the Department of Human Resources required to be certified pursuant to Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Human Resources Development Programs, juveniles of any age committed to the Division of Youth Services of the Department of Human Resources by a court of competent jurisdiction, and prison inmates. Provided further, tuition shall be waived for senior citizens attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges in accordance with G.S. 115D-20(4) and this section."

Requested by: Representatives Payne, Fussell, Senator Ward

---BOOKS AND EQUIPMENT APPROPRIATIONS/REVERT AFTER ONE YEAR

Sec. 45. Appropriations to the Department of Community Colleges for equipment and library books are made for each year of the fiscal biennium. All unencumbered appropriations shall revert to the General Fund 12 months after the close of each fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State Budget policies. The Department shall be able to identify to the Office of State Budget and Management which appropriations will revert at the end of the 12 months after the close of each fiscal year.

Requested by: Representatives Payne, Fussell, Senator Ward

---"TECH PREP"IMPLEMENTATION

Sec. 46. Of the funds available to the Department of Public Education for vocational education, \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal year, shall be allocated to the North Carolina Tech Prep Leadership Development Center at Richmond Community College for assistance to local education agencies and

community colleges in planning and implementing "Tech Prep" across the State. The Department of Community Colleges shall allocate \$50,000 each year from funds available to it for the 1991-92 fiscal year and for the 1992-93 fiscal year for the North Carolina "Tech Prep" Leadership Development Center at Richmond Community College.

Requested by: Representatives Payne, Fussell, Senator Ward

—ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

Sec. 47. (a) Funds appropriated in this Title to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing that are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, for each full-time student duly enrolled in the program as of December 1, 1990, and on condition that accreditation is maintained. The amount per student shall not exceed \$850. The State Board of Community Colleges shall adopt rules to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

(b) This section expires June 30, 1992.

Requested by: Representative Nesbitt

—STATE DEFENSE MILITIA EXEMPT FROM COMMUNITY COLLEGE TUITION AND FEES

Sec. 48. G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Adult Probation and Parole and employees of the Division of Youth Services of the Department of Human Resources required to be certified pursuant to Chapter 17C of the General Statutes and the rules of the Criminal

Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Human Resources Development Programs, juveniles of any age committed to the Division of Youth Services of the Department of Human Resources by a court of competent jurisdiction, ~~and prison inmates.~~ prison inmates, and members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered pursuant to Article 5 of Chapter 127A of the General Statutes. Provided further, tuition shall be waived for senior citizens attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens."

PART 16.—COLLEGES AND UNIVERSITIES

Requested by: Representatives Payne, Fussell, Senator Ward

—TEACHING HOSPITAL REIMBURSEMENT

Sec. 49. Reimbursement to Pitt County Memorial Hospital for uncompensated care provided to non-Pitt County residents admitted by East Carolina Medical School faculty shall be limited to the unreimbursed portion of actual costs as determined in the Medicare Cost Report.

Requested by: Representatives Payne, Fussell, Senator Ward

—AID TO PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT LIMITATIONS

Sec. 50. (a) The amount of a tuition grant awarded to a student enrolled in a degree program at a site away from the main campus of the approved private institution, as defined in G.S. 116-22(1), may be no more than the result of the ratio of the cost per credit hour for off-campus instruction at that site to the cost per credit hour for regular, full-time on-campus instruction, multiplied by the maximum grant award, or the maximum grant award allowable under Section 51(b) of this Title, whichever is less.

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

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

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

Requested by: Representatives Payne, Fussell, Senator Ward
—AID TO PRIVATE COLLEGES/PROCEDURE

Sec. 51. (a) Funds appropriated in this Title to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to \$450.00 per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

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

(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed \$1,150 per academic year, which shall be distributed to the student as hereinafter provided.

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

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of October 1 of the first academic term or on the tenth classroom day following the beginning of the second school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

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

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

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

Any remaining funds shall revert to the General Fund.

(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning.

Requested by: Representatives Payne, Fussell, Senator Ward

—WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING
FORMULAE

Sec. 52. Funds appropriated in this Title to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in the medical school as of November 1, 1991, and November 1, 1992. Disbursement to Wake Forest University shall be made in the amount of \$8,000 for each medical student who is a North Carolina resident, \$1,000 of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year may not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

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

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board of Governors shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board of Governors shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

Requested by: Representatives Payne, Fussell

—UNC BUDGETARY CHANGES

Sec. 54. The Board of Governors of The University of North Carolina shall make the following change in all future budget presentations to the General Assembly and in the 1991-93 budget certification to the constituent institutions of The University of North Carolina:

The existing budget purposes or programs of State Administration, State-Subject Matter, State Information, County Supervision, and County Program Operation with the North Carolina Agricultural Extension Service budget code shall be consolidated into the budget purposes or programs entitled State Administration, State Program Operations, and County Program Operations.

Requested by: Representatives Payne, Fussell

—UNC BOARD OF GOVERNORS/STATE BOARD OF COMMUNITY COLLEGES SMALL BUSINESS MEMORANDUM OF AGREEMENT

Sec. 55. The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall develop and implement a new Memorandum of Agreement between the Small Business and Technology Development Centers Program (SBTDC) in The University of North Carolina and the Small Business Assistance Centers in the Community Colleges system. This Memorandum of Agreement shall:

- (1) Refine existing agreements to increase coordination of services, to provide for referral and client tracking between the systems, and to define the types of service to be provided by each entity;
- (2) Provide for subcontractors when necessary or reasonable for the provision of services, including the use of federal funds to provide services;
- (3) Require definitive working agreements at the local level in those counties or municipal areas where more than one State-funded entity provides services to small businesses. These defined working agreements shall include:
 - a. Efforts to consolidate office space and support services where feasible;
 - b. Referral and client tracking systems; and
 - c. Coordination of program and service delivery efforts; and
- (4) Provide for joint annual reports on these efforts.

The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall approve the Memorandum of Agreement and report the results of their efforts and the impact of the working agreements on operations and cost to the Joint Legislative Commission on Governmental Operations and to the General Assembly by March 31, 1992.

Requested by: Representatives Payne, Fussell

—UNC BOARD OF GOVERNORS PREVENTION OF DUPLICATIVE ECONOMIC DEVELOPMENT EFFORTS

Sec. 56. The Board of Governors of The University of North Carolina shall address the issue of duplicative economic development efforts within The University of North Carolina. To achieve this, the Board shall:

- (1) Reallocate the funds for Northeastern North Carolina Tomorrow (E.C.S.U.), Western North Carolina Tomorrow (W.C.U.), the Regional Development Institute (ECU), The Economic Development Office (PSU), and the Urban Development Institute (UNC-C), pulled out of the individual campuses and provided to the Board in this act, after the funding reduction required by this act, to achieve consolidation of services and after:
 - a. Ensuring that the efforts of these offices are consistent with the Small Business and Technology Development Centers Program (SBTDC) efforts and may be used to match federal funds, including additional federal funds that may become available. The Board shall, when practical, consolidate these offices into the SBTDC network while ensuring that regional development services not provided by the SBTCD network are available to each region. The Board shall make every effort to maximize the use of any additional federal funds to lessen the impact of State budget reductions in these programs; and
 - b. Requiring the Small Business and Technology Development Centers Program (SBTDC) to provide those direct services to small businesses previously offered by the Department of Economic and Community Development, including purchaser/supplier conferences and the small business clearinghouse.

The Board shall report the results of its consolidation and coordination of economic development activities including the allocation of funds, to the General Assembly and the House and Senate Appropriations Subcommittees on Education by March 31, 1992.

Requested by: Representative Nesbitt

—OBSTETRICAL EDUCATION FUNDS

Sec. 57. Funds in the amount of \$480,000 appropriated to the Division of Maternal and Child Health, Department of Environment, Health, and Natural Resources in this Title for the Obstetrical Education Program of the Mountain Area Health Education Center (MAHEC) are hereby transferred to the Area Health Education Centers budget of the Board of Governors of The University of North Carolina. The funds transferred by this section shall be used for the MAHEC Obstetrical Education Program.

Requested by: Senators Ward, Conder

—COMMUNITY SERVICES REDUCTIONS LIMITATION/INSTITUTE OF GOVERNMENT PROGRAMS

Sec. 57.1. None of the reductions made by this act in the community services budgets of The University of North Carolina shall be taken in the programs of the Institute of Government at Chapel Hill.

Requested by: Representative Hackney, Senator Basnight
—CHINQUA-PENN PLANTATION PLAN

Sec. 57.2. The Board of Governors of the University of North Carolina, in conjunction with the Department of Cultural resources, shall prepare a plan for the future use and management or disposition of Chinqua-Penn Plantation. The board shall present this plan to the 1991 General Assembly by April 15, 1992. For the 1991-92 fiscal year, North Carolina State University at Raleigh may make agreements with local governments, private entities, or other agencies for the operation of Chinqua-Penn Plantation. Funds appropriated to North Carolina State University at Raleigh in the amount of \$60,000 may be used in conjunction with such an agreement.

PART 17.—DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Anderson, McLaughlin, Holt, Senator Goldston
—MOWING ROAD SHOULDERS

Sec. 58. The Board of Transportation shall review its policy of requiring private contractors to mow the State highway system. The Board shall look at the comparative costs between mowing with State forces versus private contractors. The Board shall explore the costs of returning mowing work, especially of secondary roads, to the 14 Highway Divisions. This study shall also consider the savings derived from reducing the width of the shoulder to be mowed. A report of the Board's findings shall be submitted to the House Appropriations Subcommittee on Transportation, to the Senate Appropriations Committee on Natural and Economic Resources, and to the Fiscal Research Division 30 days prior to the scheduled convening date of the 1992 Session of the General Assembly. Until a report is made to the 1992 Session, the Board of Transportation shall award mowing contracts of no more than one year in duration.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—DOT PERSONNEL ACTIONS REPORTED

Sec. 59. The Department of Transportation shall submit a list of personnel actions every six months to the Joint Legislative Highway Oversight Committee and to the Fiscal Research Division. This list shall include positions reallocated, reclassified, abolished, and created. The report shall give the status of the Department's salary reserves and how they were used during the reporting period.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—PLAN TO REDUCE LABOR VARIANCE

Sec. 60. The Department of Transportation shall submit to the House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Natural and Economic Resources during the 1992 Session of the General

Assembly, a plan to reduce labor variance in highway planning and design from the current nineteen and two-tenths percent (19.2%) to the pre-Trust Fund 1985 level of ten and six-tenths percent (10.6%). The Plan shall list all activities that are charged to labor variance and the reasons why the work has not been assigned to job orders.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—PERFORMANCE AUDIT COMPARING COST OF ENGINEERING SERVICES
BETWEEN DEPARTMENT OF TRANSPORTATION AND PRIVATE
ENGINEERING FIRMS

Sec. 61. The State Auditor shall conduct a performance audit comparing the cost, quality, and timeliness of engineering services provided by outside consultants versus Department of Transportation personnel. This audit shall include an analysis of overhead costs, labor variance, the impact of newly hired employees or Department of Transportation efficiency and the cost of supervising consultants. The State Auditor shall report his findings, by April 1, 1992, to the Chairmen of the Senate and House Appropriations Committees, the Chairmen of the House Appropriations Subcommittee on Transportation, and the Chairman of the Senate Appropriations Committee on Natural and Economic resources.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—REDUCTION OF HIGHWAY TRUST FUND REVENUE USED FOR
ADMINISTRATIVE EXPENSES

Sec. 62. G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed ~~five percent (5%)~~ four and one-half percent (4.5%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182."

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—BRANCH AGENT TRANSACTION RATE

Sec. 63. The Division of Motor Vehicles of the Department of Transportation shall compensate a contractor with whom it has a contract under G.S. 20-63(h) at the

rate of ninety-two cents (92¢) for each transaction performed in accordance with the requirements set by the Division. A transaction is any of the following activities:

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

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

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—BIDS FOR COMPUTER SERVICES

Sec. 64. In requests for bids, requests for quotes, requests for proposals, or other procurement actions issued through the Department of Administration, Division of Purchase and Contract, or through any other State agency, for vendors to develop a strategic plan, conduct a feasibility study, or prepare a needs assessment for a computer system, information system, data communications network, data processing application, or other information technology application, there shall be a provision that reads as follows:

"Eligibility for Future Requirements: The successful offeror on this project will not be considered for an award on subsequent hardware, software, software support, and related procurements which are based on specifications or recommendations resulting from this procurement."

The Division of Purchase and Contract and the State agency or agencies involved in the procurement may delete this provision in a procurement request by jointly (i) filing a written request with the Director of the Budget for authorization to delete this provision from the procurement effort, (ii) sending a copy of this written request for authorization to the Director of the Fiscal Research Division at the time it is filed with the Office of State Budget, (iii) receiving written authorization to delete the provision from the

Director of the Budget, and (iv) reporting the authorization, if it is granted, to the Director of the Fiscal Research Division and to the next meeting of the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives McLaughlin, Holt, Bowie, Senator Goldston
—NORTH CAROLINA RAILROAD DIVIDENDS APPROPRIATED TO THE
HIGHWAY FUND FOR RAILROAD PURPOSES

Sec. 65. G.S. 136-16.6 reads as rewritten:

"§ 136-16.6. Continuing rail appropriations.

~~There is annually appropriated, beginning with the 1987-88 fiscal year, from the General Fund to the Department of Transportation for rail purposes the greater of one hundred thousand dollars (\$100,000) or appropriated one hundred percent (100%) of the annual dividends received in the prior fiscal year (less any amounts that are required by Section 13-18 of Chapter 792, Session Laws of 1985 to be paid for the expenses of the Railroad Negotiating Commission) by the State from its ownership of stock in the North Carolina Railroad Company and the Atlantic and North Carolina Railroad Company. Company to the Highway Fund for use by the Department of Transportation for railroad purposes."~~

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—TRANSFER OF FUNDS FROM THE EQUIPMENT FUND

Sec. 66. The Department of Transportation's Equipment Fund shall pay to the Highway Fund \$5,000,000 for the 1991-92 fiscal year and \$5,000,000 for the 1992-93 fiscal year. These funds shall be used for highway maintenance.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—HIGHWAY FUND ALLOCATIONS BY CONTROLLER

Sec. 66.1. The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation in this act, Titles:

- State Construction
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations may not be diverted to other purposes.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND
APPROPRIATIONS

Sec. 66.2. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1993-94	\$971,000,000
For Fiscal Year 1994-95	\$990,000,000.

Sec. 66.3. The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 1993-94	\$394,900,000
For Fiscal Year 1994-95	\$402,800,000.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—HIGHWAY FUND LIMITATIONS ON OVEREXPENDITURES

Sec. 66.4. (a) Overexpenditures from Section 4 of this act may be made by authorization of the Director of the Budget, Titles:

- State Construction Primary Construction
- State Construction Urban Construction
- State Construction Access and Public Service Roads
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

provided that there are corresponding underexpenditures from these same Titles. Overexpenditures or underexpenditures in any Titles may not vary by more than ten percent (10%) without prior consultation with the Advisory Budget Commission. Written reports covering overexpenditures or underexpenditures of more than ten percent (10%) shall be made to the Joint Legislative Highway Oversight Committee. The reports shall be delivered to the Director of the Fiscal Research Division not less than 96 hours prior to the beginning of the Committee's full meeting.

(b) Overexpenditures from Section 4 of this act, Titles:

- State Construction Primary Construction
- State Construction Urban Construction
- State Construction Access and Public Service Roads
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

for the purpose of providing additional positions shall be approved by the Director of the Budget and shall be reported on a quarterly basis to the Joint Legislative Highway Oversight Committee and to the Fiscal Research Division.

Requested by: Representatives McLaughlin, Holt, Senator Goldston
—RESURFACED ROADS MAY BE WIDENED

Sec. 66.5. Of the contract maintenance resurfacing program funds appropriated in this act to the Department of Transportation, an amount not to exceed fifteen percent (15%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow pavements that are scheduled for resurfacing. The Department of Transportation shall report on the use of these funds to the Joint Legislative Highway Oversight Committee and the Fiscal Research Division by May 15, 1992.

Requested by: Representatives McLaughlin, Holt, Senator Goldston

—SMALL URBAN CONSTRUCTION PROGRAM FUNDS

Sec. 66.6. Of the funds appropriated in this Title to the Department of Transportation, \$10,805,664 shall be allocated in the 1991-92 fiscal year and \$10,028,266 in the 1992-93 fiscal year for small urban construction projects. \$7,000,000 of these funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small Urban Construction program for small urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits. Of the remaining funds, \$3,805,664 for the 1991-92 fiscal year and \$3,028,266 for the 1992-93 fiscal year shall be used statewide for rural or small urban highway improvements as approved by the Secretary of the Department of Transportation.

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

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Highway Oversight Committee and the Fiscal Research Division.

Requested by: Representatives McLaughlin, Holt, Senator Goldston

—HIGHWAY FUND ADJUSTMENTS TO REFLECT ACTUAL REVENUE

Sec. 66.7. Any unreserved credit balance in the Highway Fund on June 30 of each of the fiscal years of this biennium shall support appropriations in the succeeding fiscal year. If all of the balance is not needed for these appropriations, the Director of the Budget may use the remaining excess to establish a reserve for access and public roads, a reserve for unforeseen happening of a state of affairs requiring prompt action as provided by G.S. 136-44.1, and other required reserves. Actual revenue in excess of estimated revenue shall be placed in the reserve for highway maintenance. If all of the remaining excess is not used to establish these reserves, the remainder shall be allocated to the State-funded maintenance appropriations in the manner approved by the Board of Transportation. The Board of Transportation shall report monthly to the Joint Legislative Highway Oversight Committee and the Fiscal Research Division about the use of the reserve for highway maintenance.

Requested by: Senator Plyler

—SIGNING OF STATE-MAINTAINED COUNTY ROADS

Sec. 66.8. \$500,000 of the funds to be allocated pursuant to G.S. 136-44.2A for secondary road construction during the 1991-92 fiscal year shall be exempt from the county formula allocation in G.S. 136-44.5. The Department of Transportation shall utilize the funds so excluded for the county road name-signing program in the 30 counties where signing has not already been funded.

PART 18.—DEPARTMENT OF CORRECTION

Requested by: Representatives Anderson, Redwine, Senator Marvin
—PRIVATE CONFINEMENT FACILITIES

Sec. 67. No for-profit, privately owned or operated confinement facilities may be added to the State prison system unless approved by the General Assembly. The State may contract with private, nonprofit firms to provide or operate work and study release centers for women and for youth.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—NEGOTIATED RATES FOR MEDICAL SERVICES

Sec. 68. The Department of Correction shall negotiate for rates as close to Medicaid rates as possible for all medical services rendered to that Department by providers who are not State employees. The Department shall report the results of its negotiations to the Chairmen of the Senate Appropriations Committee and the Senate Base Budget Appropriations Committee, the Chairmen of the House Appropriations Committee, and the Chairmen of the Senate and the House Appropriations Committees on Justice and Public Safety prior to March 15, 1992.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—LIMIT USE OF OPERATIONAL FUNDS

Sec. 69. Funds appropriated in this Title to the Department of Correction for operational costs for additional facilities shall be used for the personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds may not be expended for any other purpose, and may not be expended for additional prison personnel positions until the new facilities are within 90 days of completion, except as authorized for the facilities at Nash, Pender, South Mountain, and Brown Creek.

Requested by: Representatives Anderson, Redwine
—INMATE REPRESENTATION STUDY

Sec. 70. The Joint Legislative Commission on Governmental Operations shall study the issue of providing legal representation to inmates in the custody of the Department of Correction by examining the current means and alternative means of providing such representation and determining which of those means are the most feasible. The Commission shall report its findings and any recommendations to the Chairmen of the Senate and House Appropriations Committees and the Chairmen of the Senate and House Appropriations Committees on Justice and Public Safety by May 1, 1992.

PART 19.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Anderson, Redwine, Senator Marvin
—REPORT ON COMMUNITY SERVICE WORKERS

Sec. 71. The Department of Crime Control and Public Safety shall report quarterly in the 1991-92 fiscal year and the 1992-93 fiscal year to the Joint Legislative

Commission on Governmental Operations and the Fiscal Research Division on the number of community service workers who were available during each month of the time period preceding that report to perform repairs and maintenance of the parks and when and where they were available.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—REPORT ON THE CRIME VICTIMS COMPENSATION FUND

Sec. 72. The Department of Crime Control and Public Safety shall report annually to the Senate and House Appropriations Base Budget Committees on Justice and Public Safety and the Fiscal Research Division on the administrative expenditures of the North Carolina Crime Victims Compensation Fund.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

Sec. 73. (a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that State applications for drug law enforcement grants are subject to review by the State legislature or its designated body.

(b) The North Carolina General Assembly hereby provides that State applications for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, are subject to review by the Joint Legislative Commission on Governmental Operations if at the time of review the General Assembly is not in session.

(c) Unless a State statute provides a different forum for review where a federal law or regulation provides that a State application for a grant must be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—REPORT ON MOTOR VEHICLE REPLACEMENT COST

Sec. 74. The Department of Crime Control and Public Safety shall report to the 1991 General Assembly, 1992 Regular Session, regarding the reduction in the number of motor vehicles replaced by the Highway Patrol for the 1991-92 fiscal year and the effect, if any, of that reduction on the Highway Patrol, and shall also review and report on the projected cost of replacing motor vehicles for the 1992-93 fiscal year. The Department of Justice shall report to the 1991 General Assembly, 1992 Regular Session, regarding the reduction in the number of motor vehicles replaced by the State Bureau of Investigation for the 1991-92 fiscal year and the effect, if any, of that reduction on the State Bureau of Investigation, and shall also review and report on the projected cost of replacing motor vehicles for the 1992-93 fiscal year.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—REPORT ON HIGHWAY PATROL FURNITURE AND EQUIPMENT
REPLACEMENT SCHEDULE

Sec. 75. The Highway Patrol, Department of Crime Control and Public Safety, shall report to the 1991 General Assembly, 1992 Regular Session, regarding the reductions in the replacement schedule for furniture and equipment for the Highway Patrol for the 1991-92 fiscal year and the effect, if any, of those reductions. The Highway Patrol shall also report on the projected cost of the replacement schedule for equipment and furniture for the 1992-93 fiscal year.

Requested by: Representatives Anderson, Redwine, Senators Marvin, Odom

—CRIME VICTIMS COMPENSATION/SOFTWARE FUNDS

Sec. 76. (a) The Office of State Budget and Management shall designate \$10,080 of the Computer Reserve Fund created in the Office of State Budget and Management for the 1991-92 fiscal year for the critical computer needs of the Crime Victims Compensation Program in the Department of Crime Control and Public Safety.

(b) Effective January 1, 1992, the Department of Crime Control and Public Safety shall eliminate one position for a claims examiner and one position for an investigator.

PART 20.—JUDICIAL DEPARTMENT

Requested by: Representatives Anderson, Redwine, Senator Marvin

—COMMISSIONERS ON UNIFORM STATE LAWS

Sec. 77. From funds appropriated to the Judicial Department in the certified budget for the 1991-93 fiscal biennium in this Title, the Administrative Office of the Courts may transfer within its budget up to \$19,000 for the 1991-92 fiscal year and up to \$19,000 for the 1992-93 fiscal year to reimburse the expenses of travel of the North Carolina delegation of the National Conference of Commissioners on Uniform State Laws.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—INDIGENT PERSONS' ATTORNEY FEE FUND

Sec. 78. (a) Effective July 1, 1991, the Administrative Office of the Courts shall each year of the 1991-93 fiscal biennium place the sum of \$3,249,236 from the Indigent Persons' Attorney Fee Fund in a reserve for capital cases and for transcripts, professional examinations, and expert witness fees. The Administrative Office of the Courts shall allot these funds as needed for these purposes and for unanticipated demands on the fund.

(b) Effective July 1, 1991, the Administrative Office of the Courts shall, for each year of the biennium, allot the sum of \$11,500,000 from the Indigent Persons' Attorney Fee Fund for adult, juvenile, and guardian **ad litem** cases for the 1991-92 and 1992-93 fiscal years to each judicial district where the superior and district court districts are coterminous, and otherwise by county, according to the caseload of indigent

persons who were not represented by the public defender in the districts or counties during 1990-91 and 1991-92, respectively.

The Administrative Office of the Courts shall notify all senior resident superior court judges, all chief district court judges, and the clerk of superior court within the district or county immediately after the allotment is made and shall regularly notify them how much remains for the district or county.

The senior resident superior court judge and the chief district court judge of each district or county shall ask all judges holding court within the district or county: (i) to take into consideration the amount of money allotted at the beginning of the fiscal year and the amount of money remaining in the allotment when they award counsel fees to attorneys of indigent persons, and (ii) to make an effort to award fees equally and justly for legal services provided. The clerk of superior court for each county shall assure that all judges holding court within the county receive this request from the senior resident superior court judge and the chief district court judge.

(c) If the funds allotted pursuant to subsection (b) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot the remaining funds from the Indigent Persons' Attorney Fee Fund in the same manner as provided in subsection (b) of this section, provided, however, if necessary and appropriate due to unusual and unanticipated circumstances occurring in the current year, the Administrative Office of the Courts may allocate funds to a district or county in a manner calculated to result in the reasonably fair distribution of the remaining funds. Such funds shall be subject to the limitations and directions set out in subsection (b) of this section.

(d) If the funds allotted pursuant to subsection (c) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts is authorized to resume payments in such districts or counties only if and when it is reasonably determined that the total projected expenditures will be less than the total approved budget for the Indigent Persons' Attorney Fee Fund for the fiscal year.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—CURRENT OPERATING EXPENSES

Sec. 79. From funds appropriated to the Judicial Department in the certified budget for the 1991-92 fiscal year in this Title, the Administrative Office of the Courts may transfer within its budget up to \$2,500,000 to meet additional current operating expenses for supplies and materials, current obligations, fixed charges, other expenses, equipment and books, and indigent persons' attorney fees. The Administrative Office of the Courts shall make quarterly reports on transfers made pursuant to this section to the Joint Legislative Commission on Governmental Operations and the Chairmen of the Senate and the House Appropriations Committees on Justice and Public Safety.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—RAPE VICTIM WITNESS COUNSELLOR PROGRAM

Sec. 80. From funds appropriated to the Judicial Department in the certified budget for the 1991-93 biennium in this Title, the Administrative Office of the Courts may transfer within its budget up to \$25,000 for the 1991-92 fiscal year and up to \$25,000 for the 1992-93 fiscal year to support the existing Rape Victim Witness Counsellor Program.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—ASSIGNED COUNSEL/PUBLIC DEFENDER COST COMPARISON REPORTS FOR DISTRICTS 4A, 5, AND 10; INTENT TO ESTABLISH PUBLIC DEFENDER OFFICES WHERE ASSIGNED COUNSEL COSTS EXCESSIVE

Sec. 81. (a) Before the 1992 Regular Session of the 1991 General Assembly convenes, the Administrative Office of the Courts shall submit to the House and Senate Appropriations Committees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations two reports which compare the amount actually spent on private assigned counsel for indigent persons in Superior Court District or Set of Districts 4A (Sampson, Duplin, and Jones Counties), 5 (New Hanover and Pender Counties), and 10 (Wake County), with the estimated amount which would have been incurred had there been a public defender in each of those districts. The first report shall be submitted on or before January 1, 1992, and shall cover the period May 1, 1991, through October 31, 1991; the second report shall be submitted on or before May 20, 1992, and shall cover the period May 1, 1991, through April 30, 1992. Each report shall be based on methods and shall be presented in a format substantially similar to those of the "Comparative Cost Estimates for Establishing Additional Public Defender Offices in Certain Judicial Districts" which are prepared annually by the Administrative Office of the Courts.

(b) It is the intent of the General Assembly to establish, effective July 1, 1992, a public defender office for a defender district coterminous with any of the three superior court districts or set of districts designated in subsection (a) of this section in which the amount actually spent on private assigned counsel between May 1, 1991, and April 30, 1992, exceeds the estimated amount which would have been incurred in the same period had there been a public defender office in that district or set of districts, as shown in the reports submitted pursuant to subsection (a) of this section.

(c) By May 20, 1992, the Administrative Office of the Courts shall report to the entities designated to receive the reports in subsection (a) of this section on the cost effectiveness of the existing public defender offices.

Requested by: Representatives Anderson, Redwine, Senator Marvin

—APPELLATE DEFENDER – DEATH PENALTY CASES

Sec. 82. (a) Report on Appellate Defender's Office. The Judicial Department shall submit reports on March 15 of each year of the 1991-93 biennium to the House and Senate Appropriation Committees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on:

- (1) The purpose and activities of that part of the Appellate Defender's Office devoted to death penalty cases, and

(2) An accounting of General Fund expenditures on assistance provided to paid counsel, State-appointed counsel, and **pro bono** attorneys.

(b) No Lobbying by Appellate Defender's Office. The Appellate Defender's Office shall not lobby any entity, organization, or legislative body to urge either abolition or retention of the death penalty. If the Appellate Defender's Office or any of its employees fail to comply with this section or with any of the duties of the Appellate Defender's Office related to death penalty cases, the Director of the Administrative Office of the Courts may refuse to seek continued State funding for that part of the Appellate Defender's Office devoted to death penalty cases, or take such other actions as the Director considers appropriate.

(c) Clarify Responsibilities of Appellate Defender. G.S. 7A-486.3 reads as rewritten:

"§ 7A-486.3. Duties.

The appellate defender shall:

- (1) Represent indigent persons subsequent to conviction in trial courts pursuant to assignment by trial court judges under the general supervision of the Chief Justice of the Supreme Court. The Chief Justice may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, authorize the appellate defender not to accept assignments of certain appeals but instead to cause those appeals to be assigned either to a local public defender's office or to private assigned counsel.
- (2) Maintain a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
- (3) Provide continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.
- (4) Provide consulting services to attorneys representing defendants in capital cases.
- (5) Recruit qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.
- (6) In his discretion, serve as counsel of record for indigent defendants in capital cases in State court.
- (7) Undertake direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

Requested by: Representatives Anderson, Redwine, Senator Marvin

—TERMINATION OF AUTOMATIC DISMISSAL PROGRAMS

Sec. 84. Effective August 1, 1991, the programs in Prosecutorial Districts 5, 25, 26, 27A, and 27B for dismissing all minor traffic citation court cases and forgiving

the payment of all court costs upon the completion by the offender of a "defensive driving course" or "traffic safety school" shall be terminated. No such program may be established or operated in any judicial or prosecutorial district except by express enactment of the General Assembly.

Requested by: Representatives Anderson, Redwine, Senators Marvin, Odom
 ---COMMUNITY PENALTIES PROGRAMS

Sec. 84.1. (a) Of the funds appropriated in this act to the Judicial Department to conduct the community penalty programs, the sum of \$1,518,912 shall be allocated among the community penalties programs listed below as follows:

One Step Further, Inc.	\$139,664
Services to Nash County Community Penalties Program	44,000
Services to Rockingham/Caswell	40,900
Fayetteville Area Sentencing Center, Inc.	131,878
Re-Entry, Inc.	93,500
Repay, Inc.	100,045
Community Corrections Resources, Inc.	104,379
Western Carolinians for Criminal Justice, Inc.	100,300
Prison & Jail Project, Inc.	100,300
Community Penalties Program, Inc.	68,213
Jacksonville Community Penalties, Inc.	89,250
Services to Sampson, Duplin, and Jones Counties	55,000
Gaston Community Penalties, Inc.	53,661
Services to Cleveland and Lincoln Counties	38,000
Dispute Settlement Center, Inc.	53,661
Appropriate Punishment Option, Inc.	53,661
Mecklenburg Community Corrections	93,500

Neuse River Council of Governments DBA Neuse River Community Penalties Program	55,000
Tuscarora Tribe of North Carolina	52,000
Citizens for Community Justice	52,000.

(b) Funds allocated in subsection (a) and not used by the community penalties programs listed above may be used by the Judicial Department to establish new community penalties programs.

The Judicial Department shall report annually to the Senate and House Appropriations Base Budget Committees on Justice and Public Safety and to the Fiscal Research Division on the administrative expenditures of the community penalties programs.

PART 21.—DEPARTMENT OF JUSTICE

Requested by: Representatives Anderson, Redwine, Senator Marvin
 —USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE
 LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

Sec. 85. (a) Assets transferred to the Department of Justice during the 1991-93 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of that Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1991-93 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of that Department and shall result in an increase of law enforcement resources for the Department. The departments shall report to the Joint Legislative Commission on Governmental Operations upon the receipt of these assets and, before using these assets, shall report the intended use of these assets and the departmental priorities on which the assets may be expended.

The General Assembly finds that the use of these assets for new projects, the acquisition of real property, repair of buildings where such repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods; therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

(b) This section does not apply to the extent that it prevents North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a.

Requested by: Representatives Anderson, Redwine, Senator Marvin
 —DEPARTMENT OF JUSTICE STUDY/CHARGES FOR LEGAL SERVICES TO
 LOCAL GOVERNMENTS AND STATE AGENCIES

Sec. 86. (a) The Department of Justice shall study the feasibility of charging local governments for legal services rendered to those governments by the Office of the

Attorney General. The Department of Justice shall consider the number of requests for legal assistance received from local governments, the type of legal assistance requested, the time required to respond to the requests, and any other matters related to the issue of charging local governments for legal assistance. The Department of Justice shall also consider what fee, if any, is appropriate to charge local governments for such legal services. The Department of Justice shall report its findings and recommendations to the 1991 General Assembly, 1992 Regular Session.

(b) The Department of Justice shall study the feasibility of an increase in the fees currently charged other State departments and agencies for its legal services, such fee increase to be effective for the 1993-94 fiscal year. The Department of Justice shall also study the feasibility of requiring all State departments and agencies that have attorneys assigned to them by the Attorney General to pay the compensation, including salaries and benefits, for those legal positions. The Department of Justice shall report its findings and recommendations to the 1991 General Assembly, 1992 Regular Session.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—DEPARTMENT OF TRANSPORTATION TO PAY COMPENSATION OF
ATTORNEYS ASSIGNED TO MOTOR VEHICLES DIVISION BY THE
ATTORNEY GENERAL

Sec. 87. The Department of Transportation shall pay the compensation, including salaries and benefits, of the attorneys assigned to the Division of Motor Vehicles by the Attorney General. The funds to pay the compensation for those legal positions shall be taken from the Highway Fund.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—JUSTICE ACADEMY STUDY/STUDENT REGISTRATION FEE

Sec. 88. The North Carolina Justice Academy shall study the possibility of requiring a student registration fee. The study shall include consideration of the actual cost for a student to attend the Justice Academy, the merits of charging a registration fee, and the amount, if any, that should be charged as a registration fee. The North Carolina Justice Academy shall report its findings and recommendations to the 1991 General Assembly, 1992 Regular Session.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—SBI USE OF COURT-ORDERED RESTITUTION FUNDS

Sec. 89. The State Bureau of Investigation (SBI) may use funds available from court-ordered restitution in undercover drug operations.

Requested by: Representatives Anderson, Redwine, Senator Marvin
—PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING
BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

Sec. 90. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those boards by the State.

Requested by: Representatives Anderson, Redwine, Senators Marvin, Odom
 —TRANSFER LEGAL AND SUPPORT STAFF POSITIONS FROM VARIOUS
 DEPARTMENTS TO THE DEPARTMENT OF JUSTICE

Sec. 91. (a) The following positions are transferred to the Department of Justice from the Department of Administration:

Dept Agency	Position Number	Position Title	Grade
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ADMINISTRATION

Radioactive Waste	0095	Paralegal II	67
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(b) The following positions are transferred to the Department of Justice from the Department of Agriculture:

Dept Agency	Position Number	Position Title	Grade
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AGRICULTURE

Administration Legal Staff	0105	Agency Legal Specialist II	75
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(c) The following positions are transferred to the Department of Justice from the Department of Community Colleges:

Dept Agency	Position Number	Position Title	Grade
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COMMUNITY COLLEGES

Legal Staff	0180 (to 1160)	Paralegal I	65
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(d) The following positions are transferred to the Department of Justice from the Department of Correction:

Dept Agency	Position Number	Position Title	Grade
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CORRECTION

Legal Staff	0074	Agency Legal Specialist III	77
	0078	Agency Legal Specialist II	75
	0080	Agency Legal Specialist II	75
	0079	Agency Legal Specialist II	75
	0084	Paralegal III (Employee Title = Paralegal II)	70 67
Support Staff			
	0088	Administrative Secretary IV	61
	0090	Clerk-Typist IV	59
	0092	Clerk-Typist III	57

(e) The following positions are transferred to the Department of Justice from the Department of Environment, Health, and Natural Resources:

Dept Agency	Position Number	Position Title	Grade
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ENVIRONMENT, HEALTH AND NATURAL RESOURCES

Legal Staff Administration	1902	Agency Legal Specialist III	77
	1903	Agency Legal Specialist III	77
	1906	Agency Legal Specialist I	73

	1907	Agency Legal Specialist III	77
	1909	Agency Legal Specialist III	77
	1911	Agency Legal Specialist II	75
	1912	Agency Legal Specialist III	77
	1915	Agency Legal Specialist III	77
	1916	Agency Legal Specialist III	77
	1918	Agency Legal Specialist I	73
Marine Fisheries	8442	Paralegal II	67
	8443	Paralegal II	67
	8444	Paralegal II	67
Solid Waste	4523	Attorney II	79
Support Staff	1914	Clerk-Steno V	61
	1917	Clerk-Typist IV	59
	1908	Clerk-Typist IV	59
	1905	Clerk-Typist IV	59
	4035	Secretary III	57

(f) The following positions are transferred to the Department of Justice from the Department of Human Resources:

Dept Agency	Position Number	Position Title	Grade
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HUMAN RESOURCES

Legal Staff

Office of the Secretary	0713	Agency Legal Specialist II	75
Division of Youth Services	0003	Agency Legal Specialist I	73
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	0025	Agency Legal Specialist I	73

(g) The following positions are transferred to the Department of Justice from the Department of Insurance:

Dept Agency	Position Number	Position Title	Grade
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INSURANCE

Legal Services Division	0114	Attorney II	79
	0117	Attorney II	79
	0120	Attorney II	79
	0122	Attorney II	79
	0123	Attorney II	79
	0124	Attorney II	79
	0125	Attorney II	75
		Agency Legal	

	0126	Specialist III	77
	0133	Paralegal II	67
Field Audit	0420	Attorney II	79
Support Staff	0134	Clerk-Typist IV	59
	0138	Clerk-Typist IV Administrative	59
	0139	Secretary V	61
	0144	Clerk-Typist IV	59

(h) The following positions are transferred to the Department of Justice from the Department of Revenue:

Dept Agency	Position Number	Position Title	Grade
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REVENUE

Legal Staff Field Operations	8210	Agency Legal Specialist II	75
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(i) The following positions are transferred to the Department of Justice from the Department of the Secretary of State:

Dept Agency	Position Number	Position Title	Grade
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SECRETARY OF STATE

Legal Staff			
Corporations Division	0200	Attorney- Corporations Filing	75
Support Staff	0420	Clerk-Steno III	57

(j) The equipment, supplies, records, and other property to support the positions transferred by this section are also transferred from the appropriate departments to the Department of Justice.

(k) Funds are transferred in this Title to the Department of Justice for the positions, equipment, supplies, and other property transferred to the Department of Justice by this section. Funds for the 1992-93 fiscal year for those positions, equipment, supplies, and other property shall be reduced by fifteen percent (15%). To achieve the fifteen percent (15%) reduction required by this section, the Attorney General shall identify specific reductions relating to equipment, supplies, and other property transferred under this section and shall identify the positions transferred to the Department of Justice by this section to be eliminated. The Attorney General shall report to the Legislative Commission on Governmental Operations and the Fiscal Research Division by March 15, 1992, regarding those reductions and positions to be eliminated. By July 1, 1992, the Attorney General shall permanently make reductions relating to equipment, supplies, and other property transferred by this section and shall eliminate the positions transferred to the Department of Justice by this section to achieve the fifteen percent (15%) reduction.

(l) Any department from which a position is transferred under this section to the Department of Justice shall continue to provide adequate office space for legal and support staff assigned to that department by the Attorney General.

(m) Any disputes arising out of this transfer shall be resolved by the Director of the Budget.

Requested by: Representatives Anderson, Redwine, Senators Marvin, Odom
—DEPARTMENT OF JUSTICE/DRUG INFORMATION SYSTEM

Sec. 92. The North Carolina Drug Information System proposed in the State's 1991 Criminal Justice Improvement and Drug Control Grant application submitted to the United States Department of Justice, Bureau of Justice Assistance, shall be housed in the Department of Justice and shall be under the supervision and control of the Attorney General. The Department of Justice and the Department of Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by March 15, 1992, regarding the progress in implementing the system.

Requested by: Representatives Anderson, Redwine, Senators Marvin, Odom
—SBI FUNDS/SPENDING PRIORITIES

Sec. 92.1. (a) Of the funds appropriated in this Title to the Department of Justice, State Bureau of Investigation, for the 1991-92 fiscal year and the 1992-93 fiscal year for overtime payments, the first priority for use of the funds by the Department shall be:

- (1) To make overtime payments to SBI agents in the Field Investigations Division; and
- (2) To make overtime payments to supervisory personnel receiving overtime payments as of June 30, 1991, up to a maximum of \$5,200 annually per individual.

(b) The Office of State Personnel shall study all supervisory personnel positions in the State Bureau of Investigation to determine the appropriate salary grade

and classification of those positions and shall report its findings and recommendations to the Senate and House Appropriations Committees on Justice and Public Safety and the Fiscal Research Division by March 1, 1992.

PART 22.—DEPARTMENT OF HUMAN RESOURCES

Requested by: Representatives Nye, Easterling, Senator Richardson
—MEDICAID

Sec. 93. (a) Funds appropriated in this Title for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days.
- (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Human Resources.
- (3) Nursing Facilities - As prescribed under the reimbursement plan for Nursing Facilities. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program, subject to phase-in certification for those nursing facilities not already enrolled in Medicare. State facilities are not subject to the requirement to enroll in the Medicare Program.
- (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed under the State Plan for reimbursing intermediate care facilities for the mentally retarded.
- (5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with a plan adopted by the Department of Human Resources consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the plan adopted by the Department of Human Resources, consistent with federal reimbursement regulations. Adjustments to the professional services fee shall be established by the General Assembly.

- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services - Fee schedules as developed by the Department of Human Resources. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of Human Resources.
- (8) Home Health, Private Duty Nursing, Clinic Services, Prepaid Health Plans - Payment to be made according to reimbursement plans developed by the Department of Human Resources.
- (9) Medicare Buy-In - Social Security Administration premium.
- (10) Ambulance Services - Uniform fee schedules as developed by the Department of Human Resources.
- (11) Hearing Aids - Actual cost plus a dispensing fee.
- (12) Rural Health Clinic Services - Provider based - reasonable cost; nonprovider based - single cost reimbursement rate per clinic visit.
- (13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray services - Uniform fee schedules as developed by the Department of Human Resources.
- (15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of Human Resources.
- (17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the plan, as approved by the Department of Human Resources.
- (18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to the Children's Special Health Services program at rates negotiated by the Department of Human Resources.
- (19) Personal Care Services - Payment in accordance with plan approved by the Department of Human Resources.
- (20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of Human Resources.
- (21) Hospice - Services may be provided in accordance with plan developed by the Department of Human Resources.
- (22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited to agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and

reimbursement is made in accordance with a plan developed by the Department of Human Resources not to exceed the upper limits established in federal regulations.

- (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with plan approved by the Department of Human Resources.
- (24) Health Insurance Premiums - Payments to be made in accordance with the plan adopted by the Department of Human Resources consistent with federal regulations.

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

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

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

(d) Medicaid and Aid to Families with Dependent Children Income Eligibility Standards. Effective January 1, 1990, the maximum net family annual income eligibility standards for Medicaid and Aid to Families with Dependent Children, and the Standard of Need for Aid to Families with Dependent Children shall be as follows.

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

*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

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

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

(e) Spouse Responsibility. The Department of Human Resources, Division of Medical Assistance, may not consider the income or assets of the spouse of a person who is admitted as a long-term care patient in a certified public or private intermediate care or skilled nursing facility to be available to the institutionalized person. This provision will remain in effect until superseded by federal law under the Medicare Catastrophic Coverage Act of 1988, on September 1, 1989.

(f) Dental Coverage Limits. Dental services will be provided on a restricted basis in accordance with regulations developed by the Department. Funds for dental services shall be disbursed only with prior approval by the Department of Human Resources, Division of Medical Assistance, as required by this subsection. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, X rays, prophylaxes, nonsurgical tooth extractions, amalgam fillings, and fluoride treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall adopt rules, as provided by the Administrative Procedure Act, to implement this subsection.

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

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

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

(i) Volume Purchase Plans and Single Source Procurement. The Department of Human Resources, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans,

single source procurement or other similar processes in order to improve cost containment.

(j) Cost Containment Programs. The Department of Human Resources, Division of Medical Assistance, may undertake cost containment programs including preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

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

(l) Effective January 1, 1988, the Department of Human Resources shall provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

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

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each July shall be covered for Medicaid benefits;
- (2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each July 1, shall be covered for Medicaid benefits;
- (3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each July 1 shall be covered for Medicaid benefits; and
- (4) Children aged 6 through 18 who were born after September 30, 1983, with family incomes equal to the federal poverty guidelines as revised each July 1, shall be covered for Medicaid benefits.

Services to pregnant women eligible under this section continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children eligible under this section, no resources test shall be applied.

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

Requested by: Representatives Easterling, Nye, Senators Richardson, Royall

—GENERAL REDUCTIONS AND SAVINGS/RULES

Sec. 95. The Department of Human Resources, Division of Medical Assistance, shall effect reductions and accomplish savings for the 1991-92 fiscal year and the 1992-93 fiscal year and shall adopt rules necessary to effect these reductions and accomplish these savings at the earliest appropriate date.

Requested by: Representatives Easterling, Nye, Senator Richardson
—FAMILY SUPPORT ACT

Sec. 96. (a) Section 229 of Chapter 1014 of the 1985 Session Laws is amended by adding a new subsection to read:

"(d) If any provision of this section is held invalid by a court of competent jurisdiction, the invalidity shall not affect the remaining provisions of this section that can be given effect."

(b) The General Assembly finds that it is in the best interest of the State and of all its citizens to encourage recipients of Aid to Families with Dependent Children to obtain jobs and become self-sufficient. It further finds that, by continuing medical assistance and providing limited wage assistance to those recipients who are working, the State will make it possible to help many recipients to be able to keep their jobs, support their families, and become self-sufficient.

(c) The Social Services Commission shall adopt rules to change the way it budgets Aid to Families with Dependent Children payments that will result in more recipients being able to find work and keep working. These rules shall include subtracting countable income from the State standard of need, and paying a percentage of the difference. The percentage that shall be applied to determine the amount of assistance shall be the same percentage set in the Current Operations Appropriations Act that determines the Aid to Families of Dependent Children payment level from the standard of need.

Requested by: Representatives Nye, Easterling, Senator Richardson
—RETROSPECTIVE ACCOUNTING ADJUSTMENT

Sec. 97. The Department of Human Resources shall use funds appropriated to it by this Title to provide a State supplementary payment to Aid to Families of Dependent Children households adversely affected by the retrospective accounting procedure as allowed under section 403(a) of the Social Security Act as amended by section 157(a) of the Tax Equity and Fiscal Responsibility Act of 1982. The amount of the State supplement shall not exceed the maximum payment standard for the Aid to Families with Dependent Children Program.

Requested by: Representatives Easterling, Nye, Senator Richardson
—AFDC/WOMEN IN THIRD TRIMESTER OF PREGNANCY ADJUSTMENT

Sec. 98. The Division of Social Services, Department of Human Resources, shall provide Aid to Families with Dependent Children to women in their third trimester of pregnancy regardless of whether these women have children, if they otherwise qualify for these payments.

Requested by: Representatives Nye, Easterling, Senator Richardson
—ADOPTION SUBSIDY

Sec. 99. The adoption subsidy paid monthly by the Division of Social Services, Department of Human Resources, to eligible families who adopt hard-to-place children shall be established at \$150.00 per child per month.

Requested by: Representatives Easterling, Nye, Senator Richardson
—FOSTER CARE

Sec. 100. Funds appropriated to the Department of Human Resources by this Title for foster care assistance rates shall be used to set the rates at \$265.00 per child per month.

Requested by: Representatives Nye, Easterling, Senator Richardson
—EMERGENCY ASSISTANCE

Sec. 101. The Division of Social Services, Department of Human Resources, shall not expend more State funds than are appropriated for Emergency Assistance by this Title. Within this limit, Emergency Assistance benefits shall not exceed \$300.00 per year per family, payable over a 30-day period. After this 30-day period, Emergency Assistance benefits are not available to that family until 12 months have elapsed from the initial authorization date. The family may have no more than a total of \$300.00 in liquid assets in order to qualify for any Emergency Assistance pursuant to this section.

It is the intent of the General Assembly that these Emergency Assistance funds shall only be used to provide assistance to persons to alleviate an emergency. In evaluating whether an emergency exists, the county departments of social services shall apply prudent judgment to evaluate each emergency on its own merits. Prudent judgment will permit departments of social services to consider whether the client created the emergency and whether the assistance will resolve the emergency.

Requested by: Representatives Easterling, Nye, Senator Richardson
—FOOD STAMP OUTREACH

Sec. 102. The Department of Human Resources shall continue a Food Stamp Outreach Program. Under the Program, the Department shall inform public and private agencies, community groups, potentially eligible persons, and the general public regarding the eligibility requirements of the Food Stamp Program. The Department shall maintain a referral list of public and private agencies, community groups, and interested persons and organizations who serve low-income persons. The Department shall inform these agencies and persons regarding the Food Stamp Program and changes in the law that affect client eligibility or the extent of benefits. The Department shall develop and distribute informational materials, such as public service announcements, brochures, pamphlets, posters, and correspondence.

Requested by: Representatives Nye, Easterling, Senator Richardson
—CHILD PROTECTIVE SERVICES

Sec. 103. (a) Of the funds appropriated to the Department of Human Resources, Division of Social Services for Child Protective Services in this Title, the Division shall use up to \$175,900 in each fiscal year of the 1991-93 biennium to provide consultation and technical assistance to county departments of social services to strengthen and support local child protective services. The remaining funds shall be allocated to the county departments of social services as follows:

- (1) \$10,000 for the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal year shall be allocated to each of the 15 county departments that did not receive an allocation of the 1985 State appropriation for child protective services;
- (2) In addition, each of the 100 county departments shall receive an allocation of \$10,000 for the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal year;
- (3) The balance of available funds shall be allocated to each county department based upon the percentage that the total number of abuse and neglect reports within that county represents to the statewide total number of abuse and neglect reports. These percentages shall be computed from the reports received by the Central Registry of Abuse and Neglect cases for the last two fiscal years.

(b) Funds allocated to county departments of social services pursuant to this section shall be used for staff carrying out investigations of reports of child abuse or neglect or providing protective or preventive services in cases in which the department confirms neglect, abuse, or dependency. If a county department demonstrates that it has adequate protective services staff, these funds may be used to purchase or provide treatment and other support services to children and their families in confirmed cases. All expenditures shall be directly in support of the department's program of protective services for children. These funds shall not be used to supplant any Social Services Block Grant funds or county appropriations previously budgeted for protective services for children.

(c) The Department of Human Resources, Division of Social Services, shall establish criteria and guidelines to assure that the allocations to county departments of social services are used in accordance with the intent and purposes of this section.

Requested by: Representatives Easterling, Nye, Senator Richardson
—CHILD CARING INSTITUTION REIMBURSEMENT

Sec. 104. (a) Funds appropriated to the Department of Human Resources, Division of Social Services, in this Title for the 1992-93 fiscal year for the monthly payment of State funds to private residential child care agencies for the provision of foster care shall be disbursed in accordance with rules established by the Social Services Commission pursuant to G.S. 143B-153(2)d., and in accordance with the following requirements:

- (1) Only those child caring agencies that have been receiving funds from the Division of Social Services that have been appropriated as grants-

in-aid to non-State agencies shall be included in the disbursement unless additional State or federal funds are made available to permit disbursement to new child caring agencies. A new child caring agency may receive funds pursuant to this section only if the additional State or federal funds made available are sufficient to allow disbursements to the new agency without reducing the disbursement to the agencies already receiving funds;

- (2) The formula for the disbursement of these funds shall be based on the assumption that the State is committed to paying allowable foster care maintenance costs and shall do so, to the extent that State and federal funds are available; and
 - (3) In any year that State and federal funds are not sufficient to pay each agency's allowable foster care maintenance costs, each participating agency's rate shall be reduced by the same percentage, so that each agency receives the same percentage of its allowable costs.
- (b) This section becomes effective July 1, 1992.

Requested by: Representatives Easterling, Nye, Senator Richardson
—CHILD-PLACING AGENCIES CHANGE

Sec. 105. G.S. 143B-153(2) reads as rewritten:

- "(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:
- a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);
 - b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;
 - c. For the placement and supervision of dependent and delinquent children and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48; and
 - d. For the payment of ~~grants in aid and other~~ State funds to private ~~child caring institutions~~. The payment and distribution of grants in aid funds to private child caring institutions shall be regulated by the grant in aid (GIA) formula. This formula and any modifications of this formula shall be approved by the Advisory Budget Commission prior to its implementation. child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the

custody or placement responsibility of a county department of social services."

Requested by: Representatives Nye, Easterling, Senator Richardson

—LIMITATIONS ON STATE ABORTION FUND

Sec. 106. Section 93 of Chapter 479 of the 1985 Session Laws, as amended by Section 75 of Chapter 738 of the 1987 Session Laws, as amended by Section 72 of Chapter 500 of the 1989 Session Laws, as amended by Section 79 of Chapter 1066 of the 1989 Session Laws, Regular Session 1990, shall remain in effect on and after July 1, 1991, with the following exception:

Any reference in Section 93 of Chapter 479 of the 1985 Session Laws, as amended, to the 1985-86 fiscal year or the 1986-87 fiscal year applies to the 1991-92 fiscal year and the 1992-93 fiscal year.

Requested by: Representatives Easterling, Nye, Senator Richardson

—WILLIE M.

Sec. 107. (a) Legislative Findings. The General Assembly finds:

- (1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18 who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;
- (2) That children meeting these criteria have been identified as a class in the case of Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al.; and
- (3) That these children have a need for a variety of services, in addition to those normally provided, that may include but are not limited to residential treatment services, educational services, and independent living arrangements.

(b) Funds appropriated by the General Assembly to the Department of Human Resources for serving members of the Willie M. Class shall be expended only for programs serving members of the Willie M. Class identified in Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al., including evaluations of potential class members. The Department shall reallocate these funds among services to Willie M. Class members during the year as it deems advisable in order to use the funds efficiently in providing appropriate services to Willie M. Class children.

(c) Funds for Department of Public Education. Funds appropriated to the Department of Public Education in this act for members of the Willie M. Class, are to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(d) The Department of Human Resources shall continue to implement its prospective unit cost reimbursement system and shall ensure that unit cost rates reflect reasonable costs by conducting cost center service type rate comparisons and cost center line item budget reviews as may be necessary, and based upon these reviews and comparisons, the Department shall reduce and/or cap rates to programs which are significantly higher than those rates paid to other programs for the same service.

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

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

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

(e1) From existing funds available to it, the Department of Human Resources shall begin a process to document and assess individual class members' progress through the continuum of services. Standardized measures of functioning shall be administered periodically:

- (1) In the 1991-92 fiscal year, to a representative sample of class members;
- (2) In the 1992-93 fiscal year and thereafter, to each member of the class, and the information generated from these measures shall be used to assess client progress and program effectiveness,

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

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

- (1) That the General Assembly has evaluated the known needs of the State and has endeavored to satisfy those needs in comparison to their social and economic priorities; and
- (2) That the funds appropriated will enable the development and implementation of placement and services for the class members in Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al., within a reasonable period of time considered within the context of the needs of the class members, the other needs of the State and the resources available to the State.

(h) The General Assembly supports the efforts of the responsible officials and agencies of the State to meet the requirements of the court order in Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al. To ensure that Willie M. Class members are appropriately served, no State funds shall be expended on placement and services for Willie M. Class members except:

- (1) Funds specifically appropriated by the General Assembly for the placement and services of Willie M. Class members; and
- (2) Funds for placement and services for which Willie M. Class members are otherwise eligible.

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

(i) Notwithstanding any other provision of law, if the Department of Human Resources determines that a local program is not providing appropriate services to members of the class identified in Willie M., et al. v. Martin, et al., formerly Willie M., et al. v. Hunt, et al., the Department may ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of such programs.

(j) The Department of Human Resources and the Department of Public Instruction shall submit a plan to the General Assembly by April 1, 1992, outlining specific steps that are to be taken, within a specified time period, and within existing resources, to meet its obligation of providing appropriate services to class members. As part of this plan, the Department shall propose when and how the Willie M. program shall become fully self-regulating and self-monitoring.

Requested by: Representatives Nye, Easterling, Senator Richardson
—WILLIE M. AUDIT CONTINUED

Sec. 108. The Office of State Auditor shall conduct a follow-up study of its 1990 performance audit of the Willie M. program to determine, along with other issues the Auditor considers appropriate, the following:

- (1) To what extent the range of reimbursement rates paid to area programs for similar types of services has been reduced;
- (2) To what extent the process implemented by the Department of Human Resources to review high-cost Willie M. clients has been effective in reducing the number of these clients and the costs of providing these clients services; and
- (3) To what extent a client evaluation process has been implemented by the Department of Human Resources and with what results.

The Auditor may also conduct an analysis of costs associated with providing services to a sample of clients, including high-cost clients, to determine the justification of the costs incurred. The Auditor shall submit the findings of this follow-up study of the Willie M. program to the General Assembly by February 15, 1993.

Requested by: Representatives Easterling, Nye, Senator Richardson
—THOMAS S.

Sec. 109. (a) Funds appropriated to the Department of Human Resources in this Title for the 1991-92 fiscal year and the 1992-93 fiscal year for members of the Thomas S. Class as identified in Thomas S., et al. v. Flaherty, shall be placed in a reserve in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall be expended only for programs serving Thomas S. Class members or for services for those clients who are likely to become class members. To ensure that Thomas S. Class members are appropriately served, no State funds shall be expended on placement and services for Thomas S. Class members except:

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

(b) The Department of Human Resources shall provide periodic reports of funds expended and services performed on behalf of members of the Thomas S. Class and on behalf of those clients who are likely to become class members to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

(c) Notwithstanding any other provision of law, if the Department of Human Resources determines that a local program is not providing minimally adequate services to members of the class identified in Thomas S., et al. v. Flaherty, the Department may ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of such programs.

Requested by: Representatives Nye, Easterling, Senator Richardson
—TRANSFERS OF CERTAIN FUNDS AUTHORIZED

Sec. 110. In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, mental retardation, and substance abuse authorities, the Director of the Budget is authorized to transfer excess funds appropriated to a specific service or program or fund, whether specified in a block grant plan or General Fund appropriation, into another service or program or fund for local services within the budget of the respective State agency.

The Office of State Budget and Management shall report quarterly to the Joint Legislative Commission on Governmental Operations on each transfer authorized by this section.

Requested by: Representatives Easterling, Nye, Senator Richardson

—MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

Sec. 111. Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18B-804(b)(8) shall be expended by the Department of Human Resources as prescribed by G.S. 18B-805(h). These funds shall be matched by local funds in accordance with the State/local ratio established by the current area mental health matching formula. These funds shall be allocated to the area mental health programs for substance abuse services on a per capita basis as determined by the Office of State Budget and Management's most recent estimates of county populations.

Requested by: Representatives Nye, Easterling, Senator Richardson

—ADAP TRANSPORTATION FUNDS

Sec. 112. (a) Reimbursement of Adult Developmental Activity Programs for transportation of clients shall be based on a cost per client basis. There shall be different levels of reimbursement based on documented cost levels.

(b) In reimbursing Adult Developmental Activity Programs, the Department of Human Resources shall base the reimbursement on the distribution by cost range developed by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with its most recently conducted cost study.

Requested by: Representatives Easterling, Nye, Senator Richardson

—SPECIALIZED RESIDENTIAL CENTERS' BED CONVERSION

Sec. 113. Funds made available as a result of the conversion of State supported beds in specialized residential centers to ICF/MR beds shall be used to increase the State subsidy provided to centers. Funds made available to centers by this section shall be used, as they become available, to increase the subsidy rate to sixty-five percent (65%) of the statewide average cost of providing this service based on the most recent Specialized Community Residential Cost Study.

Funds made available in addition to those needed to increase the subsidy rate may be transferred to the Department of Human Resources, Division of Medical Assistance, as needed to be used as a State match for the converted ICF/MR beds.

Requested by: Representatives Nye, Easterling, Senator Richardson

—LIABILITY INSURANCE

Sec. 114. The Secretary of the Department of Human Resources, the Secretary of the Department of Environment, Health, and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed \$1,000,000 on behalf of employees of the Departments licensed to practice medicine or dentistry. This coverage may include commercial insurance or self-insurance and shall cover these employees for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment.

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

The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Correction.

Requested by: Representatives Easterling, Nye, Senator Richardson

—NON-MEDICAID REIMBURSEMENT

Sec. 115. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

Notwithstanding the provisions of paragraph one of this section, the Department of Human Resources may negotiate with providers of medical services under the various Department of Human Resources' programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require these services that cannot be provided when limited to the Medicaid rate.

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

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>All Rehabilitation</u>	<u>Other</u>
1	\$4,860	\$ 8,364	\$4,200

2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,824	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year.

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

Requested by: Representatives Nye, Easterling, Senator Richardson
 —JOHN UMSTEAD HOSPITAL - PLANNING

Sec. 116. The Department of Human Resources may use funds that become available to it through gifts, federal or private grants, receipts from federal programs, or any other source in the 1991-92 fiscal year, for advance planning through the working drawings phase for a psychiatric facility at John Umstead Hospital.

Requested by: Representatives Easterling, Nye, Senator Richardson
 —DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
 SUBSTANCE ABUSE SERVICES BUDGET CODE CONSOLIDATION

Sec. 117. Subject to the approval of the Office of State Budget and Management, in order to operate more efficiently, the Department of Human Resources may consolidate the appropriate budget codes of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the institutions operated by the Division. Any consolidation shall ensure that each institution budget is clearly identifiable as a separate fund within the consolidated budget code or codes. To implement this change, the General Assembly approves the current budget code structure of the Division's and institutions' budgets for the 1991-93 fiscal biennium and authorizes the Department to proceed with appropriate consolidation of these budget codes during the 1991-93 fiscal biennium.

Requested by: Representatives Nye, Easterling, Senator Richardson
 —DEVELOPMENTAL DAY CENTERS GRANT-IN-AID

Sec. 118. Of the funds appropriated in this Title, to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of \$2,260,470 for the 1991-92 fiscal year is transferred to the Department of Public Instruction for handicapped children aged 3 through 4 years who have been identified through Division of Mental Health, Developmental Disabilities, and Substance Abuse Services statewide services and who

are served in developmental day centers. These funds shall be used to contract with area mental health, developmental disabilities, and substance abuse authorities or with public or private nonprofit developmental day centers to continue to serve handicapped children aged 3 through 4 years who are identified as needing developmental day services.

The Department of Public Instruction shall report to the General Assembly and to the Fiscal Research Division by May 1, 1992, regarding the use of the funds transferred to it by this section.

Requested by: Representatives Easterling, Nye, Senator Richardson
—CAREGIVER SUPPORT SHARING

Sec. 119. (a) Of the funds appropriated to the Division of Aging, Department of Human Resources, by this Title for the 1991-93 fiscal biennium, the sum of \$1,008,000 for the 1991-92 fiscal year and the sum of \$1,008,000 for the 1992-93 fiscal year shall be used for services that support family caregivers of elderly persons with functional disabilities, whether physical or mental, who want to stay in their homes rather than be institutionalized but who need assistance with the activities of daily living in order to remain at home. The services that may be purchased from funds received under this section include:

- (1) Respite Care;
- (2) Adult Day Care;
- (3) Stipends and other related costs for senior companions, modeled after the federal Senior Companion Program; and
- (4) Other related services that meet needs not now adequately addressed by the services described in subdivisions (1) through (3) of this subsection.

(b) The Division of Aging shall expend funds for these services according to the population of persons 70 years of age or older in each region. The Division of Aging shall use a maximum of ninety-five percent (95%) of the funds it receives under this section for the services described in subdivisions (1) through (4) of subsection (a) of this section and may only use a maximum of five percent (5%) for technical assistance as described in subsection (c) of this section. The Division of Aging shall choose providers in accordance with procedures under the Older Americans Act. Funds allocated by the Division pursuant to this section shall be allocated by October 1 of each fiscal year. Effective July 1, 1992, local matching requirements shall be no less than ten percent (10%). State funding shall not exceed ninety percent (90%) of the reimbursable costs.

(c) The Division of Aging may contract for technical assistance. The technical assistance shall include training assistance, coordination of various service delivery and funding sources, and ideas for innovative ways to build a lasting system of services for family caregivers.

Requested by: Representatives Nye, Easterling, Senator Richardson
—IN-HOME AGING SERVICES

Sec. 120. Of the funds appropriated to the Division of Aging, Department of Human Resources, by this Title for the 1991-93 fiscal biennium, the sum of \$720,000 for the 1991-92 fiscal year and the sum of \$720,000 for the 1992-93 fiscal year shall be used to provide funds for additional in-home aide services that enable the frail elderly to remain in their homes and avoid institutionalization.

The Division shall administer the in-home aide services and activities funded by this section. The Division of Aging shall choose in-home service providers in accordance with procedures under the Older Americans Act and shall include the following criteria: documented capacity to provide care, adequacy of quality assurance, training, supervision, abuse prevention complaint mechanisms, and costs. All funds allocated by the Division pursuant to this section shall be allocated by October 1 of each fiscal year on the same basis as funding under the Older Americans Act. Effective July 1, 1992, local matching requirements shall be no less than ten percent (10%). State funding shall not exceed ninety percent (90%) of the reimbursable costs.

Requested by: Representatives Easterling, Nye, Senator Richardson
—SENIOR CENTER OUTREACH

Sec. 121. (a) Of the funds appropriated to the Department of Human Resources, Division of Aging, by this Title for the 1991-93 fiscal biennium, \$403,800 for the 1991-92 fiscal year and \$403,800 for the 1992-93 fiscal year shall be used by the Division of Aging to enhance senior center programs as follows:

- (1) To test "satellite" services provided by existing senior centers to unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

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

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

- (1) Formally endorse the need for such a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

(c) Effective July 1, 1992, local matching requirements shall be no less than ten percent (10%). State funding shall not exceed ninety percent (90%) of reimbursable costs.

Requested by: Representatives Nye, Easterling, Senator Richardson
—FUNDS TO MATCH FEDERAL FUNDS FOR AGING

Sec. 122. The Division of Aging, Department of Human Resources, may use funds appropriated in this Title to provide the State matching requirement necessary to draw down federal money available through Title III-D of the Older Americans Act for in-home services for the frail elderly, including those with Alzheimer's Disease.

Requested by: Representatives Easterling, Nye, Senator Richardson

—DAY CARE FUNDS MATCHING REQUIREMENT

Sec. 123. No local matching funds may be required by the Department of Human Resources as a condition of any locality's receiving any State day care funds appropriated by this act unless federal law requires such a match.

Requested by: Representatives Nye, Easterling, Senator Richardson

—DAY CARE

Sec. 124. The Department of Human Resources shall distribute the funds appropriated and otherwise available to it for the purchase of slots in day care for minor children of needy families so as to serve the greatest number of children possible.

Requested by: Representatives Easterling, Nye, Senator Richardson

—DAY CARE RATES

Sec. 125. (a) Rules for the monthly schedule of payments for the purchase of day care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

- (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) Facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:
 - a. The facility's payment rate for fiscal year 1985-86; or
 - b. The market rate, as calculated annually by the Division of Facility Services' Child Day Care Section in the Department of Human Resources.
- (3) A market rate shall be calculated for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The county market rates shall be calculated from facility fee schedules collected by the Child Day Care Section on a routine basis. The Section shall also calculate a statewide market rate for each age category. The Social Services Commission shall adopt rules to establish minimum county rates that use the statewide market rates as a reference point.
- (4) Child day care homes as defined in G.S. 110-86(4) and individual child care arrangements may be paid the market rate for day care homes which shall be calculated at least biennially by the Child Day Care Section according to the method described in subsection (a)(3) of this section.

(b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of care in day care facilities for minor children of needy families. No separate licensing requirements may be used to select facilities to participate.

Day care homes from which the State purchases day care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1. Individual child care arrangements shall meet the requirements established by the Social Services Commission.

(c) County departments of social services shall continue to negotiate with day care providers for day care services below those rates prescribed by subsection (a) of this section. County departments are directed to purchase day care services so as to serve the greatest number of children possible with existing resources.

(d) To simplify current day care allocation methodology and more equitably distribute State day care funds, the Department of Human Resources shall apply the following allocation formula to all noncategorical federal and State day care funds used to pay the costs of necessary day care for minor children of needy families:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One-third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 in the State in families whose income is below the poverty level; and
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 in the State.

(e) Counties whose allocation, if based on previously used formulas, exceeds the allocation produced by the formula prescribed by this section may not have their allocations reduced to the level that results from application of the new formula. Counties whose allocation, if based on previously used formulas, is less than the allocation produced by the formula prescribed by this section shall continue to receive the proportional share of those funds that they received pursuant to appropriations for this purpose by the 1985 General Assembly. The formula prescribed by this section shall not be implemented unless additional State or federal funds are made available. The additional funds must be sufficient to apply the new formula without reducing any county's allocation below the previous year's initial allocation for child day care.

Requested by: Representatives Nye, Easterling, Senator Richardson

—COMMUNITY ACTION PROGRAM FUNDS

Sec. 126. For the 1991-92 fiscal year and the 1992-93 fiscal year, all agencies designated as eligible agencies pursuant to G.S. 108A-24 that receive Community Service Block Grant Funds may use those funds for the administration of agency programs. The amount of those funds used for administration of agency

programs shall be limited to ten percent (10%) of the total annual budget of the agency as certified in the prior year's audit of the agency. The Department of Human Resources shall report annually to the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Human Resources beginning October 1, 1991, on the use of Community Service Block Grant Funds for administration of agency programs. The report shall show:

- (1) The total budget for each community action agency or limited purpose agency by program-funding source;
- (2) The amount of funds for administration provided by each program;
- (3) The criteria for determining the amount of funds used for administrative expenses; and
- (4) The number of persons served by each program.

Requested by: Representatives Easterling, Nye, Senator Richardson

—DOMICILIARY RATE INCREASE

Sec. 127. Effective July 1, 1991, the maximum monthly rate for ambulatory residents in domiciliary care facilities shall be \$766.00 and the maximum monthly rate for semiambulatory residents shall be \$803.00. Effective July 1, 1992, the maximum monthly rates for ambulatory residents shall be increased to \$777.00 and for semiambulatory residents to \$814.00.

Requested by: Representatives Nye, Easterling, Senator Richardson

—DOMICILIARY STATE/COUNTY SHARE OF COSTS

Sec. 128. Article 3 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-139.5. Department of Human Resources; domiciliary State/county share of costs.

State funds available to the Department of Human Resources shall pay fifty percent (50%), and the counties shall pay fifty percent (50%) of the authorized rates for domiciliary care in homes for the aged and for family care homes including area mental health agency-operated or contracted-group homes."

Requested by: Representatives Easterling, Nye, Senator Richardson

—DHR EMPLOYEES/IN-KIND MATCH

Sec. 129. Notwithstanding the limitations of G.S. 143B-139.4, the Secretary of the Department of Human Resources may assign employees of the Office of Rural Health and Resource Development to serve as in-kind match to nonprofit corporations working to establish health care programs that will improve health care access while controlling costs.

Requested by: Representatives Nye, Easterling, Senator Richardson

—NO EYE CLINICS IN CERTAIN COUNTIES

Sec. 130. No funds may be expended by the Division of Services for the Blind, Department of Human Resources, to hold eye clinics in any county in which an

optometrist or ophthalmologist is willing to perform the services that would otherwise be performed by the clinic.

Requested by: Representatives Easterling, Nye, Senator Richardson

—COMMUNITY-BASED ALTERNATIVES PARTICIPATION

Sec. 131. County governments participating in the Community-Based Alternatives Program shall certify annually to the Division of Youth Services, Department of Human Resources, that Community-Based Alternatives Aid to Counties shall not be used to duplicate or supplant other programs within the county.

Requested by: Representatives Nye, Easterling, Senator Richardson

—DEPARTMENT OF HUMAN RESOURCES PROGRAM FUNDS

Sec. 132. Notwithstanding the provisions of G.S. 143-23, the Secretary of the Department of Human Resources, with the approval of the Office of State Budget and Management, may use, to the extent possible, any funds appropriated or otherwise available to the Department in the 1991-92 fiscal year for the Mental Health Accounts Receivable/Billing System.

Requested by: Representatives Easterling, Nye, Senator Richardson

—SHORT-TERM LOAN FUND FOR INTERMEDIATE CARE FACILITIES/MENTAL RETARDATION FACILITIES

Sec. 133. The Department of Human Resources may use funds that become available to it through gifts, federal or private grants, receipts from federal programs, or any other resource to develop a revolving short-term loan fund to assist area mental health, developmental disabilities, and substance abuse programs and their nonprofit contract agencies in establishing community ICF/MR facilities.

Requested by: Representatives Nye, Easterling, Senator Richardson

—EXPANSION OF THE TARGET POPULATION FOR TASC SERVICES

Sec. 134. Treatment Alternatives to Street Crimes (TASC) services may include mentally ill offenders as well as substance abusing offenders.

Requested by: Representatives Easterling, Nye, Senator Richardson

—CONVERSION OF MURDOCH CENTER BEDS TO INTERMEDIATE CARE FACILITY/MENTAL RETARDATION UNITS

Sec. 134.1. (a) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services may use State funds made available from the conversion of units at Murdoch Center to Intermediate Care Facility/Mental Retardation units in order to expand community-based services as specified in the Mental Health Study Commission plans adopted by the General Assembly.

(b) This section expires June 30, 1993.

Requested by: Representatives Easterling, Nye, Senator Richardson

—DHR AUTHORIZATION FOR USE OF AVAILABLE FUNDS FOR
RECRUITMENT OF HEALTH CARE PROFESSIONALS

Sec. 135. G.S. 122C-112(b) reads as rewritten:

"(b) The Secretary may:

- (1) Acquire by purchase or otherwise in the name of the Department equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs;
- (2) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse;
- (3) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse;
- (4) Provide technical assistance for the development and improvement of prevention services;
- (5) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description which shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget and Management as determined by that office;
- (6) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified;
- (7) Enter agreements authorized by G.S. 122C-346;
- (8) Accept, allocate, and spend funds from the United States Department of Defense to operate mental health demonstration projects for families of the uniformed services. Demonstration projects shall be operated through an area authority. The operation of these demonstration projects may be accomplished through subcontracts with one or more private sector ~~providers~~ providers; and
- (9) Authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-181, notwithstanding the provisions of G.S. 126-18."

Requested by: Representatives Nye, Easterling, Senator Richardson

—WILLIE M. SECURE TREATMENT FACILITY AUTHORIZATION

Sec. 136. G.S. 122C-181(a) reads as rewritten:

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

- (1) For the mentally ill:
 - a. Cherry Hospital;
 - b. Dorothea Dix Hospital;
 - c. John Umstead Hospital; and
 - d. Broughton Hospital; and
- (2) For the mentally retarded:
 - a. Caswell Center;
 - b. O'Berry Center;
 - c. Murdoch Center;
 - d. Western Carolina Center; and
 - e. Black Mountain Center; and
- (3) For substance abusers:
 - a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville;
 - b. Alcohol and Drug Abuse Treatment Center at Butner; and
 - c. Alcohol and Drug Abuse Treatment Center at Black Mountain; and
- (4) As special care facilities:
 - a. Wilson Special Care Center;
 - b. Whitaker School; ~~and~~
 - c. ~~Wright School.~~ School; and
 - d. Butner Adolescent Treatment Center."

Requested by: Representatives Nye, Easterling, Senator Richardson

—EARLY EDUCATION/HANDICAPPED/FUNDS

Sec. 137. The Department of Human Resources shall ensure that, by October 1, 1991, all types of early intervention services referenced in G.S. 122C-3(13a), and any other such services the Secretary of Human Resources, in cooperation with the other appropriate agencies and upon the advice of the Interagency Coordinating Council for Handicapped Children from Birth to Five Years of Age, considers necessary, shall be available to all eligible infants and toddlers and their families, as defined in G.S. 122C-3(13a).

Requested by: Representatives Easterling, Nye, Diamont, Senator Richardson

—CHILD PROTECTIVE SERVICES NON-SUPLANT REQUIREMENT

Sec. 138. The Department of Human Resources, Division of Social Services shall ensure that local county departments of social services do not reduce federal fund disbursements or county appropriations for child protective services because they have received State appropriations for that purpose. The Department shall monitor local agency compliance with this provision and report its findings to the General Assembly by May 1, 1992.

PART 23.—DEPARTMENT OF AGRICULTURE

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—AGRICULTURE TO MARKET FOREST PRODUCTS

Sec. 139. The Department of Agriculture shall market forest products through the Department's marketing programs.

PART 24.—DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—MAIN STREET PROGRAM RESTRICTIONS

Sec. 140. (a) G.S. 143B-472.35(e) reads as rewritten:

"(e) A Main Street City that is selected may not receive a grant plus any loans pursuant to this act totaling less than ~~one hundred thousand dollars (\$100,000)~~ twenty thousand dollars (\$20,000) or more than three hundred thousand dollars (\$300,000)."

(b) Notwithstanding G.S. 143B-472.35(b), the Department of Economic and Community Development may transfer not more than \$40,000 of interest earnings credited to the Main Street Financial Incentive Fund pursuant to G.S. 143B-472.35(a), from the Fund to the North Carolina Main Street Center Program operating budget for fiscal year 1991-92.

(c) Notwithstanding G.S. 143B-472.35, the Department of Economic and Community Development shall transfer \$100,000 of interest earnings in the Main Street Financial Incentive Fund from the Fund to the General Fund for fiscal year 1991-92. The Department shall transfer funds pursuant to this subsection on July 1, 1991.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
—WORKER TRAINING TRUST FUND

Sec. 141. (a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of \$5,459,673 for the 1991-92 fiscal year and the sum of \$6,059,673 for the 1992-93 fiscal year for the operation of local offices at the 1986-87 level of service.

(b) Notwithstanding G.S. 96-5(c), there is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina, the sum of \$2,000,000 for the 1991-92 fiscal year and the sum of \$2,000,000 for the 1992-93 fiscal year for administration of the Veterans Employment Program, Employment Services Program, and Unemployment Insurance Program.

(c) Supplemental federal funds or other additional funds received by the Employment Security Commission for similar purposes shall be expended prior to the expenditure of funds appropriated by this section.

(d) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1991-92 and the 1992-93 fiscal years for the following purposes:

- (1) \$3,000,000 for the 1991-92 fiscal year and \$2,400,000 for the 1992-93 fiscal year to the Department of Economic and Community Development, Division of Employment and Training, for the Employment and Training Grant Program.
- (2) \$500,000 for the 1991-92 fiscal year and \$500,000 for the 1992-93 fiscal year to the North Carolina Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Pre-Apprenticeship Division.
- (3) \$2,000,000 for the 1991-92 fiscal year and \$2,000,000 for the 1992-93 fiscal year to the North Carolina Department of Human Resources to assist welfare recipients in gaining employment through the federally funded Job Opportunities and Basic Skills Program in such a way as to gain the maximum match of federal funds for the State dollars appropriated.
- (4) \$1,250,000 for the 1991-92 fiscal year and \$1,250,000 for the 1992-93 fiscal year to the North Carolina Department of Community Colleges to continue the Focused Industrial Training Program.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—WORKER TRAINING TRUST FUND/REVERSION OF FUNDS

Sec. 142. G.S. 96-5(f) reads as rewritten:

"(f) Employment Security Commission Reserve Fund. – There is created in the State treasury a special trust fund, separate and apart from all other public moneys or funds of this State, to be known as the Employment Security Commission Reserve Fund, hereinafter 'Reserve Fund'. Except as provided herein and in G.S. 96-9(b)(3)j, all proceeds from the tax as defined in G.S. 96-9(b)(3)j and collected pursuant to G.S. 96-10 shall be paid into the Reserve Fund. The moneys in the Reserve Fund may be used by the Commission for loans to the Unemployment Insurance Fund, as security for loans from the federal Unemployment Insurance Trust Fund, and to pay any interest required on advances under Title XII of the Social Security Act as required by G.S. 96-6(f), and shall be continuously available to the Commission for expenditure in accordance with the provisions of this section. The State Treasurer shall be ex officio the treasurer and custodian and shall invest said moneys in accordance with existing law as well as rules and regulations promulgated pursuant thereto. Furthermore, the State Treasurer shall disburse the moneys in accordance with the directions of the Commission and in accordance with such regulations as the Commission may prescribe.

Administrative costs for the collection of the tax and interest payable to the Reserve Fund shall be borne by the Special Employment Administration Fund. Refunds of interest and tax allowable under G.S. 96-9(b)(3)j shall be made from the Reserve Fund. No taxes shall be collected or paid into this fund during a calendar year when, as of the computation date (August 1) of the preceding calendar year, the balance of the fund equals to or exceeds one percent (1%) of the taxable wages.

The interest earned from investment of the Reserve Fund moneys shall be deposited in a fund hereby established in the State Treasurer's Office, to be known as the 'Worker Training Trust Fund'. These moneys shall be used to:

- (1) Fund programs, specifically for the benefit of unemployed workers or workers who have received notice of long-term layoff or permanent unemployment, which will enhance the employability of workers, including, but not limited to, adult basic education, adult high school or equivalency programs, occupational skills training programs, assessment, job counseling and placement programs;
- (2) Continue operation of local Employment Security Commission offices throughout the State; or
- (3) Provide refunds to employers.

The use of funds from the Worker Training Trust Fund, for the purposes set out in the above paragraph, shall be pursuant to appropriations in the Current Operations Appropriations Act. Funds deposited in the Worker Training Trust Fund prior to July 1, 1987, shall be used as provided in the Current Operations Appropriations Act for 1987-89. Funds appropriated from the Worker Training Trust Fund that are unexpended and unencumbered at the end of the fiscal year for which they are appropriated shall revert to the State treasury to the credit of the Worker Training Trust Fund in accordance with G.S. 143-18."

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senator Martin of Pitt
—UTILITIES REGULATORY FEE

Sec. 143. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1991.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—TOURISM PROMOTION FUNDS

Sec. 144. Funds appropriated in this Title to the Department of Economic and Community Development for tourism promotion grants shall be allocated according to per capita income, unemployment, and population growth in an effort to direct funds to counties most in need in terms of lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

- (1) Counties 1 through 20 are each eligible to receive a maximum grant of \$7,500 for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
- (2) Counties 21 through 50 are each eligible to receive a maximum grant of \$3,500 for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
- (3) Counties 51 through 100 are each eligible to receive a maximum grant of \$3,500 for alternating fiscal years, beginning with the 1991-92

fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—PETROLEUM OVERCHARGE ATTORNEY FEES

Sec. 145. (a) Unless prohibited by federal law, rule, or regulation or preexisting settlement agreement, no later than October 1, 1989, the North Carolina Attorney General shall direct the withdrawal of all funds received in the cases of United States v. Exxon and Stripper Well that are held in accounts or reserves located out-of-State for payment of attorney fees and reasonable expenses incurred in connection with oil overcharge litigation authorized by the Attorney General. The Attorney General shall deposit these funds, and all funds to be received from petroleum overcharge funds in the future for attorney fees and reasonable expenses, into the Special Reserve for Oil Overcharge Funds.

(b) All attorney fees and reasonable expenses incurred in connection with oil overcharge litigation shall be paid by the State Treasurer from petroleum overcharge funds that have been received by this State and deposited into the Special Reserve for Oil Overcharge Funds.

(c) Notwithstanding any other provision of law, the Attorney General may authorize the payment of attorney fees and reasonable expenses from the Special Reserve for Oil Overcharge Funds without further action of the General Assembly and funds are hereby appropriated from the Special Reserve for Oil Overcharge Funds for the 1991-92 fiscal year and for the 1992-93 fiscal year for that purpose.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—NORTH CAROLINA MANUFACTURING DIRECTORY PROCEEDS

Sec. 146. (a) The Department of Economic and Community Development may expend for industrial promotional advertising any amount collected from the sales of the North Carolina Manufacturing Directory above the sum of \$155,000 already budgeted for the 1991-92 and 1992-93 fiscal years.

(b) Beginning October 1, 1991, the Department shall submit quarterly reports to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. These reports shall include the amount of proceeds collected from the sales of the Directory and the amount spent on advertising pursuant to the provisions of this section.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH

Sec. 147. Local governments requesting financial assistance from the Industrial Development Fund shall demonstrate to the satisfaction of the Department of Economic and Community Development that it would be an economic hardship for the local government to match State assistance from the Fund with local funds. The Department shall develop guidelines for determining hardship.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—BIOTECHNOLOGY CENTER

Sec. 148. (a) The North Carolina Biotechnology Center may recapture funds spent in support of successful research efforts in the nonacademic private sector.

(b) The North Carolina Biotechnology Center shall provide funding for biotechnology and related bioscience applications under its Economic and Corporate Development Program.

(c) Beginning October 1, 1991, the North Carolina Biotechnology Center shall provide quarterly reports on all of the Center's programs to the Joint Legislative Commission on Governmental Operations. The initial report shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months. Subsequent reports shall include quarterly updates of the initial report.

(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State Departments and agencies in preparation for biennium budget requests.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—MCNC

Sec. 149. (a) MCNC shall present a written report on the progress of the supercomputer program on a quarterly basis to the Joint Legislative Commission on Governmental Operations through fiscal years 1991-92 and 1992-93. The written reports shall contain at least the following information: the major accomplishments since the last report; the major activities expected for the project for the next 12 months after the date of the report; the major applications and uses on the supercomputer in the time since the last report; and, the major projected applications and uses on the supercomputer in the next six months after the date of the report. The report shall constitute a full management and status report on the supercomputer project.

(b) The Board of Directors of MCNC shall be the governing body for the supercomputer program.

(c) If MCNC specifies a Technical Advisory Council to provide to the supercomputer project, among other things:

- (1) Technical policy and operating procedure advice,
- (2) Advice concerning use of the supercomputing facilities by educational institutions and other groups and individuals,
- (3) Advice and policy suggestions concerning the structures and operations of the supercomputing center and any adjunct institutes, conferences, or consultative committees, and
- (4) Advice and counsel to MCNC or anyone it employs or enters into contract with related to the operation of the supercomputer project,

that Technical Advisory Council shall have an equal number of members appointed from (i) public sector, academic, not-for-profit organizations and (ii) for-profit, private companies by July 31, 1991. The intent of the General Assembly is for one-half of the members of this Technical Advisory Council, or any group directly affiliated with the supercomputer project management group that performs the functions of the technical advisory council as listed in this section, to be current employees of private sector, for-profit corporations by July 31, 1991.

(d) It is the intent of the General Assembly that all appropriations to MCNC for all years after the 1990-91 fiscal year for the MCNC basic research program contain the proviso that the appropriated funds are matched on the basis of two non-State dollars (\$2.00) for every three State dollars (\$3.00).

(e) Beginning October 1, 1991, MCNC shall provide quarterly reports on all of its programs to the the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. These reports shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

(f) MCNC shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. Specific salary information will be provided upon written request by the Chairmen of the Joint Legislative Commission on Governmental Operations or the Chairmen of the House Appropriations Committee on Environment, Health, and Natural Resources and the Chairman of the Senate Appropriations Committee on Natural and Economic Resources.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senator Martin of Pitt
 —MCNC BUDGET LIMITS

Sec. 150. (a) The funds appropriated in this act to MCNC shall be used as follows:

	<u>FY 1991-92</u>	<u>FY 1992-93</u>
Microelectronics Program	\$ 6,194,302	\$ 6,000,000
Grants Program	-0-	-0-
Administration & Support	2,204,804	2,000,000
Supercomputer	5,298,063	5,224,705
Telecommunications	2,827,971	2,775,295

(b) Of the funds appropriated to MCNC for the Microelectronics Program, \$2,000,000 of the total appropriation in each fiscal year is contingent upon a dollar-for-dollar match in non-State funds.

(c) If MCNC finds it necessary to make changes in the program allocations specified in subsection (a) of this Section, MCNC shall report such changes to the Joint Legislative Commission on Governmental Operations within 30 days of the reallocation.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
—RURAL ECONOMIC DEVELOPMENT CENTER

Sec. 151. (a) Of the funds appropriated in this Title to the Department of Economic and Community Development, \$1,500,000 for fiscal year 1991-92 and \$1,500,000 for fiscal year 1992-93 shall be used for a grant-in-aid to the Rural Economic Development Center, Inc., for the administrative costs of the Center and for its pilot projects and research. No more than \$300,000 of the funds appropriated for each fiscal year may be used for the administrative costs of the Rural Economic Development Center, Inc.

(b) Beginning October 1, 1991, the Rural Economic Development Center, Inc., shall provide quarterly reports on the Center's programs to the Joint Legislative Commission on Governmental Operations. The initial report shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months. Subsequent reports shall include quarterly updates of the information in the initial report.

(c) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
—RURAL ECONOMIC DEVELOPMENT CENTER FUND LIMITATIONS

Sec. 152. Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Rural Economic Development Center, Inc., for administrative purposes, including salaries and fringe benefits.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—FEDERAL FUNDS ADMINISTRATION

Sec. 153. G.S. 143B-431 is amended by adding the following new subsection to read:

"(d) The Department of Economic and Community Development, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual and may comply with the terms, conditions, and limitations of such grants in order to accomplish the Department's purposes. Grant funds shall be expended pursuant to the Executive Budget Act. In addition, the Department shall have the following powers and duties with respect to its duties in administering federal programs:

(1) To negotiate, collect, and pay reasonable fees and charges regarding the making or servicing of grants, loans, or other evidences of indebtedness.

- (2) To establish and revise by regulation, in accordance with Chapter 150B of the General Statutes, schedules of reasonable rates, fees, or charges for services rendered, including but not limited to, reasonable fees or charges for servicing applications. Schedules of rates, fees, or charges may vary according to classes of service, and different schedules may be adopted for public entities, nonprofit entities, private for-profit entities, and individuals."

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—EMPLOYMENT AND TRAINING PROGRAM

Sec. 154. Chapter 143B of the General Statutes is amended by adding the following new section to read:

"§ 143B-438.6. Employment and Training Grant Program.

(a) There is established in the Department of Economic and Community Development, Division of Employment and Training, an Employment and Training Grant Program. The purpose of the program is to make grants available to local agencies operating on behalf of the Private Industry Council serving Job Training Partnership Act service delivery areas. Grant funds shall be allocated for the purpose of enabling recipient agencies to implement local employment and training programs in accordance with existing resources, local needs, local goals, and selected training occupations. The Department shall adopt rules in accordance with Chapter 150B of the General Statutes for administering the Employment and Training Grant Program, which rules shall include procedures for review and approval of grant applications by local agencies and for monitoring use of grant funds by recipient agencies. A State-administered program of performance standards shall be used to measure grant program outcomes.

(b) Use of grant funds: Local agencies may use funds received under this section only for the purpose of upgrading the foundation of basic skills of the adult population and the existing work force in North Carolina. Services that may be provided include participant programs currently available under the federal Job Training Partnership Act that are appropriate for adults; on-the-job training; work experience; adult basic education; skills training, upgrading, and retraining; counseling and screening for job placement; service corps; and related support services. Local agencies may use grant funds to provide services only to individuals who are 18 years of age or older and who either (i) meet the current Federal Job Training Partnership Act definition of 'economically disadvantaged', or (ii) meet the current definition for eligibility under Title III of the Federal Job Training Partnership Act.

(c) Allocation of grants: The Department may reserve and allocate up to five percent (5%) of funds available to the Employment and Training Grant Program for State and local administrative costs to implement the program. The Division of Employment and Training shall allocate employment and training grants to local agencies operating on behalf of the Private Industry Council serving Job Training Partnership Act service delivery areas based on the following formula:

- (1) One half of the funds shall be allocated on the basis of the relative excess number of unemployed individuals residing in each county as compared to the total excess number of unemployed individuals in all counties in the State.
'Excess number of unemployed' is defined as the number of unemployed individuals in excess of four and one-half percent (4.5%) of the civilian labor force in each county or the number of unemployed individuals in excess of four and one-half percent (4.5%) of the civilian labor force in each census tract within the county. The following methodology is used to determine the excess number of unemployed:
- a. For counties classified as having excess unemployment, the excess number of unemployed is determined by subtracting four and one-half percent (4.5%) of the civilian labor force from the number of unemployed individuals within the county. The difference equals the number of excess unemployed.
 - b. In situations where the entire county is not classified as having excess unemployment, the excess number of unemployed is determined by census tract unemployment within the county. Census tract data is used to determine which subcounty areas qualify as areas of excess unemployment. In those subcounty areas classified as having excess unemployment (census tracts with four and one-half percent (4.5%) or higher unemployment rates), four and one-half percent (4.5%) of the census tract labor force is subtracted from the number of unemployed individuals within the area of excess unemployment. The subcounty figures of excess number of unemployed within the county are then added together to determine the total excess number of unemployed within the county.
- (2) One half of the funds shall be allocated on the basis of the relative number of economically disadvantaged individuals within each county compared to the total number of economically disadvantaged individuals in the State. To determine the number of economically disadvantaged individuals within each county, data from the State Data Center in the Office of State Budget and Management, or from the federal decennial census, whichever is most recent, shall be used.

(d) Reports, Coordination: The Department of Economic and Community Development shall report quarterly to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the North Carolina Employment and Training Grant Program. The Department shall also provide a copy of these quarterly reports to the State Job Training Coordinating Council. The Council shall advise the Department on the merger of the funds provided to implement this section with other employment and training funds to develop comprehensive work-force preparedness initiatives for the State.

(e) Funds appropriated to the Department of Economic and Community Development for the Employment and Training Grant Program that are not expended at the end of the fiscal year shall not revert but shall remain available to the Department for the purposes established in this section."

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senator Martin of Pitt
—FIRST FLIGHT SYSTEM

Sec. 154.1. (a) G.S. 143B-471.3A reads as rewritten:

"§ 143B-471.3A. Powers.

In order to enable it to carry out the purposes of this Part, the Authority may:

- (1) Exercise the powers granted corporations under G.S. 55-17;
- (2) Employ an executive director, whose salary shall be set by the General Assembly in the Current Operations Appropriations Act. The Authority may employ such other professional staff and clerical and secretarial staff as it deems necessary within the funds available to it. The salaries of such other personnel shall be set under the State Personnel Act;
- (3) Establish an office for the transaction of its business at Raleigh;
- (4) Apply for and accept grants of money from the State of North Carolina, or any political subdivision thereof, from the United States, or from any person, corporation, foundation, trust, or business or from any foreign government for any of the purposes authorized by this Part;
- (5) Establish and administer the incubator facilities program;
- (6) Administer the North Carolina Innovation Research Fund; ~~and~~
- (7) Adopt reasonable rules to effectuate the purposes of this ~~Part~~ Part; ~~and~~
- (8) Establish and administer the First Flight System, a network of business incubators across the State to transfer technologies into commercial applications by private industry."

(b) The North Carolina Biotechnology Center shall allocate, from funds appropriated to it in this Title, \$75,000 for the 1991-92 fiscal year and \$75,000 for the 1992-93 fiscal year to the North Carolina Technological Development Authority to implement and administer the First Flight System.

(c) MCNC shall allocate, from funds appropriated to it in this Title, \$75,000 for the 1991-92 fiscal year and \$75,000 for the 1992-93 fiscal year to the North Carolina Technological Development Authority to implement and administer the First Flight System.

(d) The North Carolina Technological Development Authority shall enter into a memorandum of understanding with the North Carolina Biotechnology Center and with MCNC that establishes the North Carolina Biotechnology Center and MCNC as sponsors of the First Flight System.

(e) Effective September 1, 1991, the statutory unexpended balances of appropriations, allocations, or other funds and all assets of the Technological Development Authority created in G.S. 143B-471 shall be transferred to the North

Carolina Technological Development Authority, Inc., a private, nonprofit corporation. The North Carolina Technological Development Authority, Inc., shall use the funds and other assets transferred to it pursuant to this act for (i) an incubator facilities program, (ii) an innovation research fund, and (iii) the First Flight System, a network of incubators across the State to transfer technologies into commercial applications. The incubator facilities program shall be administered in accordance with the provisions of former G.S. 143B-471.4, repealed by this section. The innovation research fund shall be administered in accordance with the provisions of former G.S. 143B-471.5, repealed by this section.

(f) Effective September 1, 1991, Part 12 of Article 10 of Chapter 143B of the General Statutes is repealed.

(g) Effective September 1, 1991:

- (1) The below described land and improvements, formerly known as the "Science and Technology Research Center", together with property installed in the building and other movable equipment and supplies shall be transferred by the State of North Carolina to The North Carolina Technological Development Authority, Inc.: BEGINNING at an iron pin located at North Carolina Grid Coordinate, north 783,348.879 east 2,041,863.310; runs thence South 9 degrees 17 minutes West 261.50 feet to an iron pin; runs thence North 67 degrees 54 minutes West 698 feet to an iron pipe; runs thence North 37 degrees 50 minutes East 48.50 feet to an iron pin; runs thence North 45 degrees 50 minutes East 340.00 feet to an iron pin; runs thence North 13 degrees 18 minutes East 345.72 feet to an iron pin in the southern line of Cornwallis Road; runs thence along the southern line of Cornwallis Road along a slight curve having a diameter of 4 degrees 00 minutes, a tangent of 411.55 feet to a radius of 1,432.69 feet a distance of 363.82 feet to an iron pin located in the southern line of Cornwallis Road; thence continuing along the southern line of Cornwallis Road South 65 degrees 52 minutes East 63.47 feet to a concrete monument; thence along the right of way of Cornwallis Road and Davis Drive South 26 degrees 42 minutes East 72.60 feet to a concrete monument; thence along the western line of the right of way of Davis Drive along a slight curve having a diameter of 1 degree 00 minutes a tangent of 351.27 feet and a radius of 5,730.34 feet a distance of 342.05 feet to an iron pin at the point and place of BEGINNING and containing 8 acres according to a deed recorded in the Office of the Register of Deeds of Durham County, North Carolina, in Book 30, pages 378-380.
- (2) The transfer made by this section shall be evidenced by a deed executed under G.S. 146-75 and registered in accordance with G.S. 146-77. The deed shall provide that the property transferred by this section shall automatically revert to the State of North Carolina if the property is used for any purposes other than the purposes set forth in subdivision (3).

- (3) The transfer made by this section is made on the condition that the North Carolina Technological Development Authority, Inc., shall use the property described in subdivision (1) solely as a business incubator serving technology research-based entrepreneurial companies in the Research Triangle Park. If the North Carolina Technological Development Authority, Inc., ceases to use the property for the purposes described in this section, then the property shall automatically revert to the State of North Carolina.

(h) Subsections (e), (f), and (g) of this section become effective September 1, 1991. The remainder of this section becomes effective July 1, 1991.

PART 25.—DEPARTMENT OF LABOR

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—FUNDING FOR OSHA ENFORCEMENT POSITIONS

Sec. 155. The Department of Labor may use funds appropriated to the Department of Labor for the Occupational Safety and Health Act of North Carolina (OSHANC) program to fully fund enforcement personnel in the Compliance Bureau of the OSHANC program, provided the Department of Labor certifies to the Office of State Budget and Management that no federal match is available for the 1991-92 fiscal year and for the 1992-93 fiscal year.

PART 26.—DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—REDUCTION IN ADMINISTRATIVE SERVICES

Sec. 156. The Department of Environment, Health, and Natural Resources shall consider abolishing positions in each of the following administrative services areas:

- (1) Computer Systems,
- (2) Fiscal Management,
- (3) Office of the General Counsel,
- (4) General Services,
- (5) Personnel, and
- (6) Planning & Assessment

in order to reduce the budget of administrative services by the sum of \$200,000 for the 1991-92 fiscal year and by the sum of \$400,000 for the 1992-93 fiscal year.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—SEPTAGE MANAGEMENT FEES

Sec. 157. Receipts collected by the Department of Environment, Health, and Natural Resources pursuant to G.S. 130A-291.1 are appropriated to the Department to establish and operate the North Carolina Septage Management Program.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—AUTHORIZE USE OF WATER QUALITY FEES

Sec. 158. There is appropriated from the nonreverting account established in G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a sum not to exceed \$2,124,142 for the 1991-92 fiscal year and a sum not to exceed \$2,148,017 for the 1992-93 fiscal year for the salaries and the necessary support for up to 49 positions for the 1991-92 fiscal year and the 1992-93 fiscal year in the water quality program. Water quality fees shall be the only source of funds for these positions and all necessary support. These positions shall be used to reduce the backlog of permit applications and to improve the rate of compliance of facilities with environmental standards for toxic substances.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—AUTHORIZE USE OF AIR QUALITY FEES

Sec. 159. There is appropriated from the nonreverting account established in G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a sum not to exceed \$1,193,340 for the 1991-92 fiscal year and a sum not to exceed \$1,487,506 for the 1992-93 fiscal year for the salaries and the necessary support:

- (1) For up to 24 positions for the 1991-92 fiscal year; and
- (2) For up to 29 positions for the 1992-93 fiscal year

in the air quality program. Air quality fees shall be the only source of funds for these positions and all necessary support. These positions shall be used to conduct air quality permitting, compliance, and monitoring activities.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—SUPERFUND PROGRAM

Sec. 160. (a) The Department of Environment, Health, and Natural Resources may use available funds, with the approval of the Office of State Budget and Management, in order to provide the ten percent (10%) cost share required for Superfund cleanups on National Priority List sites. These funds may be in addition to those appropriated for this purpose.

(b) The Department of Environment, Health, and Natural Resources and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations the amount and the source of the funds used pursuant to subsection (a) of this section within 30 days of the expenditure of these funds.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—FOREST DEVELOPMENT ACT FUNDS

Sec. 161. Notwithstanding the provisions of G.S. 113A-192, the assessment from the primary forest product processors shall be collected for the 1991-92 fiscal year and the 1992-93 fiscal year. Notwithstanding the provisions of G.S. 113A-180 and G.S. 113A-183(c), all funds accrued to the Forest Development Fund, from whatever source,

may be expended pursuant to the provisions of G.S. 113A-193(c) and Article 11 of Chapter 113A of the General Statutes for the 1991-92 fiscal year and the 1992-93 fiscal year.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—STUDY TERMINATING LEASE WITH FEDERAL GOVERNMENT

Sec. 162. The Parks and Recreation Division, Department of Environment, Health, and Natural Resources, shall study the desirability and the feasibility of terminating any long-term lease that the State entered into, whereby the State leases federal reservoirs. The Department shall report its findings and recommendations to the 1991 General Assembly (1992 Regular Session) no later than April 1, 1992.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senator Martin of Pitt
—REVISION OF PARKS FEE SCHEDULE

Sec. 163. The Parks and Recreation Division, Department of Environment, Health, and Natural Resources, may adopt a temporary rule to increase the fee authorized by G.S. 113-35(b), to become effective July 24, 1991.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—TECHNICAL REVIEW COMMITTEE APPOINTMENTS

Sec. 164. The Soil and Water Conservation Commission shall include the Executive Director of the Wildlife Resources Commission, or his designee, and the Director of the Marine Fisheries Division of the Department of Environment, Health, and Natural Resources, or his designee, among its appointments to the Technical Review Committee, which reviews the technical specifications for the best management practices specified for the Agricultural Cost Share Program for Nonpoint Source Pollution Control.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—AGRICULTURE COST SHARE PROGRAM

Sec. 165. Of the funds appropriated in this Title to the Department of Environment, Health, and Natural Resources for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, a sum not to exceed \$40,000 for the 1991-92 fiscal year and a sum not to exceed \$40,000 for the 1992-93 fiscal year shall be used to fund tide gates in Hyde County in accordance with the match requirements specified in G.S. 143-215.74(b)(6).

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—AUDITS OF SOIL AND WATER DISTRICT BOARDS

Sec. 166. G.S. 139-7 reads as rewritten:

"§ 139-7. District board of supervisors – appointive members; organization of board; certain powers and duties.

The governing body of a soil and water conservation district shall consist of the three elective supervisors from the county or counties in the district, together with the

appointive members appointed by the Soil and Water Conservation Commission pursuant to this section, and shall be known as the district board of supervisors. When a district is composed of less than four counties, the board of supervisors of each county shall on or before October 31, 1978, and on or before October 31 as the terms of the appointive supervisors expire, recommend in writing two persons from the district to the Commission to be appointed to serve with the elective supervisors. If the names are not submitted to the Commission as required, the office shall be deemed vacant on the date the term is set to expire and the Commission shall appoint two persons of the district to the district board of supervisors to serve with the elected supervisors. The Commission shall make its appointments prior to or at the November meeting of the Commission. Appointive supervisors shall take office on the first Monday in December following their appointment. Such appointive supervisors shall serve for a term of four years, and thereafter, as their terms expire, their successors shall serve for a term of four years. The terms of office of all appointive supervisors who have heretofore been lawfully appointed for terms the final year of which presently extends beyond the first Monday in December are hereby terminated on the first Monday in December of the final year of appointment. Vacancies for any reason in the appointive supervisors shall be filled for the unexpired term by the appointment of a person by the Commission from the district in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall be filled for the unexpired term by appointment by the Commission of a person from the county in the district in which the vacancy occurs.

In those districts composed of four or more counties, the Commission may, but is not ~~required, to~~ required to, appoint two persons from the district without recommendation from the board of supervisors, to serve as district supervisors along with the elected members of the board of supervisors. Such appointments shall be made at the same time other appointments are made under this section, and the persons appointed shall serve for a term of four years.

The supervisors shall designate a chairman and may, from time to time, change such designation. A simple majority of the board shall constitute a quorum for the purpose of transacting the business of the board, and approval by a majority of those present shall be adequate for a determination of any matter before the board, provided at least a quorum is present. Supervisors of soil and water conservation districts shall be compensated for their services at the per diem rate and allowed travel, subsistence and other expenses, as provided for State boards, commissions and committees generally, under the provisions of G.S. 138-5; provided, that when per diem compensation and travel, subsistence, or other expense is claimed by any supervisor for services performed outside the district for which such supervisor ordinarily may be appointed or elected to serve, the same may not be paid unless prior written approval is obtained from the Department of Environment, Health, and Natural Resources.

The supervisors may employ a secretary, technical experts, whose qualifications shall be approved by the Department, and such other employees as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the Attorney General of the State for such legal services as they may require. The supervisors may delegate to their chairman, to one or more supervisors, or to one or

more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the Soil and Water Conservation Commission, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this Chapter.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. In any given year, if the supervisors provide for an internal audit, and the supervisor serving as chairman certifies, under oath, that this internal audit is a true and accurate reflection of the accounts of receipts and disbursements, then the supervisors shall not be required, notwithstanding the provisions of G.S. 159-34, to provide for an audit of the accounts of receipts and disbursements by a certified public accountant or by an accountant certified by the Local Government Commission. Any supervisor may be removed by the Soil and Water Conservation Commission upon notice and hearing, for neglect of duty, incompetence or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

All district supervisors whose terms of office expire prior to the first Monday in January, 1948, shall hold over and remain in office until supervisors are elected or appointed and qualify as provided in this Chapter, as amended. The terms of office of all district supervisors, who have heretofore been elected or appointed for terms extending beyond the first Monday in January, 1948, are hereby terminated on the first Monday in January, 1948."

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—INTEREST ON WILDLIFE RESOURCES FUND/PRESERVE FEDERAL
FUNDING

Sec. 167. (a) G.S. 143-250 reads as rewritten:

"§ 143-250. Wildlife Resources Fund.

All moneys in the game and fish fund or any similar State fund when this Article becomes effective shall be credited forthwith to a special fund in the office of the State Treasurer, and the State Treasurer shall deposit all such moneys in said special fund, which shall be known as the Wildlife Resources Fund.

All unexpended appropriations made to the Department of Conservation and Development, the Board of Conservation and Development, the Division of Game and Inland Fisheries or to any other State agency for any purpose pertaining to wildlife and wildlife resources shall also be transferred to the Wildlife Resources Fund.

Except as otherwise specifically provided by law, all moneys derived from hunting, fishing, trapping, and related license fees, exclusive of commercial fishing license fees, including the income received and accruing from the investment of license revenues, and all funds thereafter received from whatever sources shall be deposited to the credit of the Wildlife Resources Fund and made available to the Commission until expended subject to the provisions of this Article. License revenues include the proceeds from the sale of hunting, fishing, trapping, and related licenses, from the sale, lease, rental, or other granting of rights to real or personal property acquired or produced with license revenues, and from federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is being made. For purposes of this section, real property includes lands, buildings, minerals, energy resources, timber, grazing rights, and animal products. Personal property includes equipment, vehicles, machines, tools, and annual crops. The Wildlife Resources Fund herein created shall be subject to the provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes of North Carolina as amended, and the provisions of the General Statutes of North Carolina as amended, and the provisions of the Personnel Act, Chapter 143, Article 2 of the General Statutes of North Carolina as amended.

All moneys credited to the Wildlife Resources Fund shall be made available to carry out the intent and purposes of this Article in accordance with plans approved by the North Carolina Wildlife Resources Commission, and all such funds are hereby appropriated, reserved, set aside and made available until expended, for the enforcement and administration of this Article, Chapter 75A, Article 1, and Chapter 113, Subchapter IV of the General Statutes of North Carolina. The Wildlife Resources Commission shall report to the Joint Legislative Commission on Governmental Operations before expending from the Wildlife Resources Fund more than the amount authorized in the budget enacted by the General Assembly for the fiscal period.

In the event any uncertainty should arise as to the funds to be turned over to the North Carolina Wildlife Resources Commission the Governor shall have full power and authority to determine the matter and his recommendation shall be final and binding to all parties concerned."

(b) This section becomes effective January 1, 1992.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Michaux, Senator Martin of Pitt

—CONTINUE PUBLIC DENTAL HEALTH PROGRAM EMPHASIS

Sec. 169. From the funds appropriated to the Department of Environment, Health, and Natural Resources in this act for Dental Health Services, the Department shall administer the public dental health program, the primary emphasis of which shall continue to be the delivery of preventive, educational, and dental care services to preschool children and school-age children.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Diamont, Senator Martin of Pitt

—MATERNAL AND CHILD HEALTH CARE NON-SUPPLANTING REQUIREMENT

Sec. 170. Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-4.1. State Funds for Maternal and Child Health Care/non-supplanting.

(a) The Department of Environment, Health, and Natural Resources shall ensure that local health departments do not reduce county appropriations for maternal and child health services provided by the local health departments because they have received State appropriations for this purpose.

(b) All income earned by local health departments for maternal and child health programs supported in whole or in part from State or federal funds, received from the Department of Environment, Health, and Natural Resources, shall be budgeted and expended by local health departments to further the objectives of the program that generated the income."

Requested by: Representatives H. Hunter, Ethridge, DeVane, Diamont, Senator Martin of Pitt

—HEALTH PROMOTION NON-SUPPLANTING REQUIREMENT

Sec. 171. Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-4.2. State Funds for Health Promotion/non-supplanting.

The Department of Environment, Health, and Natural Resources shall ensure that local health departments do not reduce county appropriations for health promotion services provided by the local health departments because they have received State appropriations for this purpose."

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—NON-MEDICAID REIMBURSEMENT

Sec. 172. Providers of medical services under the various State programs other than Medicaid offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

Notwithstanding the provisions of paragraph one of this section, the Department of Environment, Health, and Natural Resources may negotiate with providers of medical services under the various Environment, Health, and Natural Resources programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents

and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs with the exception of Migrant Health, School Health, AIDS Drug Reimbursement Program, diagnostic assessment for infants with sickle cell syndrome, and Home Health shall be as follows:

Family <u>Size</u>	<u>Kidney</u>	All <u>Other</u>
1	\$ 6,400	\$ 4,200
2	8,000	5,300
3	9,600	6,400
4	11,000	7,500
5	12,000	7,900
6	12,800	8,300
7	13,600	8,800
8	14,400	9,300

The eligibility level each fiscal year for outpatient services for all clients and for inpatient services for children under the age of 5, in the Children's Special Health Services Program shall be one hundred percent (100%) of the federal poverty guidelines as revised annually by the United States Department of Health and Human Services, in effect on July 1 of each fiscal year.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
 ---ASBESTOS HAZARD MANAGEMENT FUNDS

Sec. 173. The fees established and collected pursuant to Article 19 of Chapter 130A of the General Statutes are appropriated to the Department of Environment, Health, and Natural Resources to support the Asbestos Hazard Management Program.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
 ---ADOLESCENT PREGNANCY PREVENTION PROJECTS

Sec. 174. (a) Of the funds appropriated in this Title to the Division of Maternal and Child Health, Department of Environment, Health, and Natural Resources, \$982,768 for the 1991-92 fiscal year and \$982,768 for the 1992-93 fiscal year shall be used to fund adolescent pregnancy prevention projects.

(b) Beginning in fiscal year 1991-92, the Division shall evaluate all of the adolescent pregnancy projects funded as a result of this program at least yearly and shall report its findings to the Commission for Health Services, the Joint Legislative Commission on Governmental Operations, and the Chairmen of the House Appropriations Committee on Environment, Health, and Natural Resources, and the Senate Appropriations Committee on Natural and Economic Resources by April 1 of each year. The evaluation shall be conducted by a firm or individual external to the Department. Funds appropriated to the Department in Section 3 of this act for employing a Public Health Program Consultant in the Division of Maternal and Child

Health shall be used by the Department to retain the services of the evaluator required by this subsection. Any evaluation of these projects shall include a study of the effectiveness of the project in reducing the pregnancy rate within the target population.

(c) The Commission for Health Services shall be responsible for monitoring the Division's administration of the Adolescent Pregnancy Prevention Program. The Division shall implement the following changes in the management and funding of the Adolescent Pregnancy Prevention Program for projects funded from General Fund appropriations and federal block grants:

- (1) Applications. Any local agency or organization or combination of agencies and organizations may apply to the Division of Maternal and Child Health for an allocation of money to operate a project aimed at preventing adolescent pregnancy. The application shall contain an analysis of the adolescent pregnancy and related problems in the locality the project would serve, and a description of how the project would attempt, over a period of at least five years, to prevent the problems. The application shall state how much money is needed to operate the project and how the money shall be spent. The Division shall conduct annually a proposal-writing session that shall be attended by a representative of any project that wishes to apply for funding; that session shall define the criteria for accountability and evaluation that the Division requires of projects. That session shall also provide information about additional funding sources to which projects might turn to satisfy the matching requirements of subdivision (5) of this subsection.
- (2) Proposal Requirements. The Division shall apply the following minimum standards to projects applying for first-year funding:
 - a. Each project shall have a plan of action that extends for at least five years for prevention of adolescent pregnancy.
 - b. Each project shall have realistic, specific, and measurable goals and objectives for the prevention of adolescent pregnancy.
 - c. Each project, before submitting its proposal, shall send a representative to the proposal-writing session held by the Division.
- (3) Operating standards. The Division shall apply the following minimum operating standards:
 - a. Each project shall have a Board of Advisors composed of members from outside the sponsoring agency of the project. The Board of Advisors shall include representatives from at least four of the following: media, government, charitable organizations, private business, medical institutions. The Boards of Advisors shall meet at least quarterly and advise project staff on project policies and operations.
 - b. Each project shall comply with reporting, contracting, and evaluation requirements of the Division.

- c. Each project shall define and maintain cooperative ties with other community institutions.
 - d. Each project shall demonstrate its ability to attract financial support from sources other than the State, including sources in the local community.
- (4) Criteria for Selection. For first-year funding, the Division shall choose from among the applicants that meet the minimum standards in subdivision (2) of this subsection the best selection of projects according to the following criteria:
- a. Adequacy of proposed staff to meet project objectives;
 - b. Appropriateness of project strategies to reduce adolescent pregnancy;
 - c. Level of community support, including endorsement from the appropriate local government entity and documentation from the appropriate local government entity and from community organizations that opportunity has been given for citizen input into the proposed program, and that there is community support for the proposal. Documentation may include letters or statements of support from citizens or community organizations, or statements that community support was expressed at public hearings. A public hearing is not required by this paragraph;
 - d. Degree of need of the locality, including that the county has a significant adolescent pregnancy problem as evidenced by its attributable risk score developed by the Division of Statistics and Information Services; and
 - e. Other appropriate criteria.
- The Division shall make its recommendations for funding to the Commission for Health Services. The Commission shall make the final determination of which projects are to be funded. The Commission shall consider the recommendations of the Division but shall not be bound by them. The Commission shall notify the projects that are to be funded by June 1 of each year.
- (5) Schedule of Funding. If the Commission, upon consultation with the Division, finds that a project it has chosen for first-year funding continues to meet the operating standards of subdivisions (2) and (3) of this subsection, funding for that project shall continue, to the extent of available money, for an additional four years. The level of funding provided by the Division to approved projects shall be set according to the following schedule:
- a. First year, eighty percent (80%) of the project's annual budget not to exceed the maximum award established by the Commission for Health Services,

- b. Second year, ninety percent (90%) of the State appropriations or federal block grant funds awarded in the first year,
- c. Third year, seventy-five percent (75%) of the State appropriations or federal block grant funds awarded in the first year,
- d. Fourth year, sixty-five percent (65%) of the State appropriations or federal block grant funds awarded in the first year, and
- e. Fifth year, fifty percent (50%) of the State appropriations or federal block grant funds awarded in the first year.

The portion of a project's budget that must come from sources other than State or federal block grant funds may be provided as in-kind contributions as well as cash.

- (6) **Five-Year Limit on Funding.** No project shall receive State funding if it has previously received State funding for five full years. Any project that has received State funding before July 1, 1990 will be eligible for consideration for an additional five years' State support, according to the schedule. The Commission may fund any such project that meets the minimum standards if it determines, after considering the experience and impact of the project and measuring its application against those of other applicants, that it should be funded.
- (7) **Maximum Level of Funding.** The Commission for Health Services shall by rule determine the maximum annual amount that may be made to any one project.
- (8) As adolescent pregnancy prevention project grant funds decrease, a project shall maintain its original budget level, less the amount expended for start-up costs. The Department shall develop guidelines for determining start-up costs, which guidelines shall be uniform for all projects. Local match percentage may come from any in-kind source or newly generated funds, public or private, available to the project.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—INFECTION CONTROL PROGRAM/FUNDS TRANSFER

Sec. 175. Of the funds appropriated to the Department of Environment, Health, and Natural Resources, Division of Epidemiology, for the 1991-93 biennium, \$85,274 shall be transferred in each fiscal year to the University of North Carolina at Chapel Hill for the School of Medicine of the University of North Carolina at Chapel Hill. Funds transferred pursuant to this section shall be used to support the Health Care Facilities Infection Control Program in investigating and controlling nosocomial infections in hospitals, long-term care facilities, and other medical facilities in cooperation with the Division of Epidemiology. Funds transferred shall also be used to provide training and consultation to hospitals, long-term care facilities, and other medical facilities to prevent and control nosocomial infections.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senator Martin of Pitt
—PHARMACEUTICAL FUNDS/SEXUALLY TRANSMITTED DISEASE CONTROL PROGRAM

Sec. 175.1. Funds appropriated in this Title to the Department of Environment, Health, and Natural Resources, Division of Epidemiology, for the Tuberculosis Control Hospitalization Program, may be used for pharmaceuticals for the Sexually Transmitted Disease Control Program.

Requested by: Representatives H. Hunter, Ethridge, DeVane, James, Senator Martin of Pitt

—SOIL AND WATER CONSERVATION DISTRICT SUPERVISORS' EXPENSES

Sec. 176. Of the funds appropriated in this Title to the Division of Soil and Water Conservation, Department of Environment, Health, and Natural Resources, \$214,594 for the 1991-92 fiscal year and \$214,594 for the 1992-93 fiscal year shall be used for the per diem and travel expenses of the Soil and Water Conservation District Supervisors.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Gottovi, Senator Martin of Pitt

—CHILDREN'S SPECIAL HEALTH SERVICES/REFUNDS

Sec. 178. (a) The Office of State Budget and Management shall carry forward all funds allotted in the 1990-91 fiscal year and the 1991-92 fiscal year for the Children's Special Health Services Program to the 1991-92 fiscal year and the 1992-93 fiscal year, respectively, in the Division of Maternal and Child Health, Department of Environment, Health, and Natural Resources.

(b) The Office of State Budget and Management shall allow the Department of Environment, Health, and Natural Resources to budget and expend refunds of the prior year's expenditures for the purchase of care by the Children's Special Health Services Program for the same purpose in the fiscal year in which the refund is received.

(c) Subsection (a) of this section becomes effective June 30, 1991.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
—PUBLIC HEALTH PROGRAM FEES/EXEMPTION FOR ELDERLY

Sec. 179. G.S. 130A-248(d) reads as rewritten:

"(d) (Expires June 30, 1992) The Department shall charge each facility subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Human Resources and public school cafeterias, an annual fee of twenty-five dollars (\$25.00). The Department shall charge an additional twenty-five dollar (\$25.00) late payment fee to any facility that fails to pay the required fee within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend or revoke the permit of a facility that fails to pay the required fee within 60 days after billing by the Department. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be

credited to the General Fund and may be used to support State and local public health programs and activities. The Department shall make an annual report to the Joint Legislative Commission on Governmental Operations and the Director of the Fiscal Research Division that shall include the fees collected and disbursed under this subsection and any other information requested by the General Assembly or the Commission."

Requested by: Representatives H. Hunter, Ethridge, DeVane, Redwine, Senator Martin of Pitt

—TRANSFER LAND RECORDS MANAGEMENT

Sec. 181. (a) The statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, of the Department of Environment, Health, and Natural Resources to conduct the land records management program, as provided by G.S. 143-345.6, is transferred to the Department of the Secretary of State.

(b) G.S. 143-345.6 is recodified as G.S. 147-54.3.

(c) G.S. 143-345.6, as recodified as G.S. 147-54.3 by subsection (b) of this section, reads as rewritten:

"§ 147-54.3. Land records management program.

(a) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State shall administer a land records management program for the purposes (i) of advising registers of deeds, local tax officials, and local planning officials about sound management practices, and (ii) of establishing greater uniformity in local land records systems. The management program shall consist of the activities provided for in subsections (b) through (e) of this section, and other related activities essential to the effective conduct of the management program.

(b) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice and technical assistance to local governments in implementing and maintaining minimum standards with regard to the following aspects of land records management:

- (1) Uniform indexing of land records;
- (2) Uniform recording and indexing procedures for maps, plats and condominiums; and
- (3) Security and reproduction of land records.

(c) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State shall conduct a program for the preparation of county base maps pursuant to standards prepared by ~~that Department~~ the Secretary.

(c1) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State, shall, in cooperation with the Secretary of Revenue, conduct a program for the preparation of county cadastral maps pursuant to standards prepared by the ~~Department of Environment, Health, and Natural Resources~~ Secretary of State.

(d) Upon the joint request of any board of county commissioners and the register of deeds and subject to available resources of personnel and funds, the Secretary shall make a management study of the office of register of deeds, using assistance from the Office of State Personnel. At the conclusion of the study, the Secretary shall make nonbinding recommendations to the board, the register of deeds, and to the General Assembly.

(d1) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State shall make comparative salary studies periodically of all registers of deeds offices and at the conclusion of each study the Secretary of ~~Environment, Health, and Natural Resources~~ State shall present his written findings and shall make recommendations to the board of county commissioners and register of deeds of each county.

(e) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of State, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall undertake research and provide advice and technical assistance to local governments on the following aspects of land records management:

- (1) Centralized recording systems;
- (2) Filming, filing, and recording techniques and equipment;
- (3) Computerized land records systems; and
- (4) Storage and retrieval of land records.

(f) An advisory committee on land records is created to assist the Secretary in administering the land records management program. The Governor shall appoint 12 members to the committee; one member shall be appointed from each of the organizations listed below from persons nominated by the organization:

- (1) The North Carolina Association of Assessing Officers;
- (2) The North Carolina Section of the American Society of Photogrammetry;
- (3) The North Carolina Chapter of the American Institute of Planners;
- (4) The North Carolina Section of the American Society of Civil Engineers;
- (5) The North Carolina Tax Collectors' Association;
- (6) The North Carolina Association of Registers of Deeds;
- (7) The North Carolina Bar Association;
- (8) The North Carolina Society of Land Surveyors; and
- (9) The North Carolina Association of County Commissioners.

In addition, three members from the public at large shall be appointed. The members of the committee shall be appointed for four-year terms, except that the initial terms for members listed in positions (1) through (4) above and for two of the members-at-large shall be two years; thereafter all appointments shall be for four years. The Governor shall appoint the chairman, and the committee shall meet at the call of the chairman. The Governor in making the appointments shall try to achieve geographical and population balance on the advisory committee; one third of the appointments shall be persons from the most populous counties in the State containing approximately one third of the State's population, one third from the least populous counties containing

approximately one third of the State's population, and one third shall be from the remaining moderately populous counties containing approximately one third of the State's population. Each organization shall nominate one nominee each from the more populous, moderately populous, and less populous counties of the State. The members of the committee shall receive per diem and subsistence and travel allowances as provided in G.S. 138-5."

(d) This section is effective upon ratification.

TITLE II. - EXPANSION

PART 27.—CURRENT OPERATIONS/GENERAL FUND

Sec. 182. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 1993, according to the following schedule:

<u>Current Operations-General Fund</u>	<u>1991-92</u>	<u>1992-93</u>
Judicial Department	\$ 1,197,262	\$ 197,262
Department of Public Education	25,346,040	60,045,414
Department of Justice	229,627	229,627
Department of Administration		
01. Administration	624,395	606,507
02. State Controller	1,037,280	1,037,280
Department of Agriculture	205,000	205,000
Department of Insurance	964,893	925,349
Department of Environment, Health, and Natural Resources	5,502,794	9,404,319
Office of Administrative Hearings	619,776	1,907,437
Department of Human Resources		
01. DHR - Secretary	123,892	123,892
02. Social Services	17,528,708	19,723,832
03. Social Services - State Aid to Non-State Agencies	645,960	-
04. Medical Assistance	57,993,075	66,973,005

05.	School for the Deaf and Hard of Hearing	300,000	577,151
06.	Division of Services for the Blind	541,865	944,910
07.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	15,368,898	22,196,460
08.	Division of Youth Services	900,000	960,000
	Total Department of Human Resources	93,402,398	111,499,250
	Department of Correction	-	10,764,288
	Department of Economic and Community Development	150,461	393,989
	Rural Economic Development Center	3,100,000	-
	Department of Cultural Resources	70,145	70,145
	Department of Crime Control and Public Safety	165,000	-
	University of North Carolina – Board of Governors		
01.	University Institutional Program	8,389,400	10,989,400
	State Board of Elections	8,200	-
	Department of Community Colleges	10,955,044	10,955,044
	Reserve - Economic Development	750,000	-
	Savings Reserve Account	400,00	-
	Debt Service	<u>3,655,500</u>	<u>15,970,900</u>
	GRAND TOTAL CURRENT OPERATIONS – GENERAL FUND	\$156,773,215	\$235,201,211

PART 28.—CURRENT OPERATIONS/HIGHWAY FUND

Sec. 183. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1993, according to the following schedule:

<u>Current Operations-Highway Fund</u>	<u>1991-92</u>	<u>1992-93</u>
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Department of Transportation			
01.	Administration	\$ 552,800	\$ 55,440
02.	Division of Highways		
	a. Administration and Operations	153,657	228,974
	b. State Maintenance		
	(01) Primary	7,769,712	5,160,874
	(02) Secondary	13,655,855	9,070,626
	(03) Urban	2,119,012	1,407,512
03.	Division of Motor Vehicles	822,436	1,184,729
04.	Reserve for Asphalt Cleanup	1,000,000	1,000,000
05.	Reserve for Air Cargo Airport Authority	2,610,000	3,955,250
06.	Transfer to General Fund for reimbursement for sales tax exemption	<u>8,700,000</u>	<u>8,700,000</u>
GRAND TOTAL CURRENT OPERATIONS—			
HIGHWAY FUND			
		\$ 37,383,472	\$ 30,763,405

PART 29.—GENERAL PROVISIONS

Requested by: Representative Gardner

—STATE AGENCY MAILING LISTS PURGED

Sec. 184. (a) Each State agency, commission, institution, and university that maintains a mailing list comprising more than 200 addressees to whom free printed material is distributed through the postal service shall, no later than January 1, 1992, query each addressee to determine whether that addressee desires to remain on the mailing list. The agency, commission, institution, or university shall within one month thereafter purge the mailing list of each nonresponding addressee and each addressee who indicates a desire that the addressee's name be removed. Each State agency, commission, institution, and university shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by March 1, 1992, regarding its cost savings.

(b) Mailing lists that are required by law are exempt from this section.

PART 29.1.—GENERAL GOVERNMENT PROVISIONS

Requested by: Senator Basnight

—SEAFOOD & AQUACULTURE COMMISSION MEMBERSHIP

Sec. 184.1. G.S. 120-70.61 reads as rewritten:

"§ 120-70.61. Membership; cochairmen; vacancies; quorum.

The Joint Legislative Commission on Seafood and Aquaculture shall consist of ~~eleven~~15 members: ~~three~~four Senators appointed by the President Pro Tempore of the Senate; ~~three~~four Representatives appointed by the Speaker of the House of Representatives; ~~three~~four members appointed by the Governor; and ~~two~~three

members appointed by the Commissioner of Agriculture. The members shall serve at the pleasure of their appointing officer. The President Pro Tempore of the Senate shall designate one Senator to serve as cochairman and the Speaker of the House of Representatives shall designate one Representative to serve as cochairman. Vacancies occurring on the Commission shall be filled in the same manner as initial appointments. A quorum of the Commission shall consist of ~~six~~eight members."

Requested by: Senator Lee

—LRC STUDY OF TUITION AND ENROLLMENT AT THE UNC SYSTEM

Sec. 184.2. The Legislative Research Commission may study tuition, fees, and enrollment at The University of North Carolina. If the Commission conducts this study, it shall consider the following:

- (1) Comparison of tuition and fees at each of the constituent institutions for resident and nonresident students, with tuition charged for resident and nonresident students at comparable institutions in other states;
- (2) Feasibility of charging nonresident students at the constituent institutions a tuition rate comparable to that charged to nonresident students enrolled at comparable institutions in the nonresident students' home states;
- (3) Comparison of current tuition rates with the actual cost of educating students;
- (4) Number and percentage of resident and nonresident students enrolled at each constituent institution at the undergraduate and at the graduate levels of study; and
- (5) Any other issues related to charges for tuition and fees that the Commission deems appropriate.

If the Commission conducts the study authorized under this section, it may report its findings together with recommended legislation, to the 1992 Session of the 1991 General Assembly, or to the 1993 General Assembly, or to both.

PART 29.2.—DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford

—CONTRACTED UNEMPLOYMENT INSURANCE CLAIMS

Sec. 184.3. Funds appropriated in Title II of this act to the Department of Administration, Office of State Personnel, shall be used for administrative operating costs related to contracted unemployment insurance claims administration services.

PART 29.3.—OFFICE OF THE GOVERNOR

Requested by: Senators Basnight, Plyler

—SAVINGS RESERVE ACCOUNT

Sec. 184.4. Notwithstanding any other provision of law, funds in the Savings Reserve Account shall not revert to the State Treasury at the end of each fiscal year but

shall remain in the Savings Reserve Account and be carried forward for the next succeeding fiscal year, unless the funds are needed by the Governor to carry out his constitutional duty to balance the State budget.

PART 30.—SALARIES AND BENEFITS

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—SALARIES/GOVERNMENT EMPLOYEES

Sec. 185. The salaries of those individuals whose annual salaries for the 1989-90 and 1990-91 fiscal years were set in Sections 23, 24, 25, 26, 27, 28, 30(a), 31, 32, and 39 of Chapter 752 of the 1989 Session Laws, are set for the 1991-92 and 1992-93 fiscal years at the level set in those sections for the 1990-91 fiscal year.

Requested by: Senator Basnight, Representative Nesbitt
—TEACHER, STATE EMPLOYEE, AND OTHER EDUCATION PERSONNEL
COMPENSATION

Sec. 186. The General Assembly recognizes the importance of implementing the third year of the teacher salary schedule; therefore, it is the intent of the General Assembly to complete implementation of a teacher salary schedule in the 1992-93 fiscal year and to place teachers on it according to years of experience if funds are available to do so. It is the intent of the General Assembly also to ensure that State employees, teachers, and other education personnel are treated equitably with respect to salary increases; therefore, to the extent that funds are available to do so, it is the intent of the General Assembly to grant salary increases to State employees, teachers, and other public school and University personnel in the 1992-93 fiscal year that are over and above salary levels funded for the 1991-92 fiscal year.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—STATE EMPLOYEE COST OF LIVING PRIORITY

Sec. 187. (a) It is the intent of the General Assembly that Cost of Living general pay increases be given priority over performance pay as the Governor and the General Assembly determine the appropriate allocation of State employee salary increases relating to Cost of Living general pay adjustments and performance pay. To effect this intent, no performance pay shall be granted except in accordance with subsections (b), (c), (d), and (e) of this section, which ensure that Cost of Living general pay increases of at least two percent (2%) are allocated before any performance pay is allocated. It is also the intent of the General Assembly to acknowledge the need to adjust the determination of Cost of Living general pay increases so that all State employees, regardless of salary, are treated equitably. To effect that intent, the General Assembly may make any adjustment to the Cost of Living general salary increases allocated to State employees that it considers necessary to render the allocations truly equitable for all employees.

Nothing in this section affects the right of the General Assembly to allocate flat percentage Cost of Living general pay increases.

(b) G.S. 126-7(a) reads as rewritten:

"(a) It is the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, salary increases to State employees ~~shall~~ may be based, in part, on each individual employee's job performance and, in part, on general increases given to all State employees."

(c) G.S. 126-7 is amended by adding a new subsection to read:

"(a1) General salary increases for State employees shall precede any consideration of a performance pay allocation. Performance pay shall be allocated only when the total allocation for increases equals or exceeds two percent (2 %)."

(d) G.S. 126-7(b) reads as rewritten:

"(b) To guide the Governor and the General Assembly in making appropriations to further the compensation policy of the State, the State Personnel Commission shall conduct annual compensation surveys. ~~The Commission shall determine the percent of funds appropriated for salary increases to be reserved for a general increase for all State employees and the percent to be reserved for performance-based increases for eligible employees.—~~The Commission shall present its recommendation on the percentages and the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years. ~~The amount reserved for performance increases shall not be less than twenty five percent (25%) nor more than seventy five percent (75%) of the total allocation."~~

(e) G.S. 126-7(c), until the first subdivision, reads as rewritten:

"(c) Performance ~~increases~~ increases, if awarded, shall be based on performance appraisals of all employees conducted by each department, agency, and institution. The State Personnel Commission, under the authority of G.S.126-4(8), shall adopt policy and regulations for performance appraisal. The policy and regulations shall include the following:"

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—SALARY RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 188. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

(b) Effective July 1, 1991, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1991-92 fiscal year are (i) nine and sixty-three hundredths percent (9.63%) - Teachers and State Employees; (ii) fourteen and sixty-three hundredths percent (14.63%) - State Law Enforcement Officers; (iii) eight and sixty-six hundredths percent (8.66%) - University Employees' Optional Retirement Program; (iv) twenty-seven and twenty-two hundredths percent (27.22%) - Consolidated Judicial Retirement System; and (v) thirty-two and thirty hundredths percent (32.30%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include forty-two hundredths percent (0.42%) for the Disability Income Plan.

(c) Effective July 1, 1992, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1992-93 fiscal year are (i) ten and ninety-three hundredths percent (10.93%) - Teachers and State Employees; (ii) fifteen and ninety-three hundredths percent (15.93%) - State Law Enforcement Officers; (iii) eight and sixty-six hundredths percent (8.66%) - University Employees' Optional Retirement Program; (iv) twenty-nine and forty-six hundredths percent (29.46%) - Consolidated Judicial Retirement System; and (v) thirty-two and thirty hundredths percent (32.30%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include forty-two hundredths percent (0.42%) for the Disability Income Plan.

(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 1991-92 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible employees and retirees - \$1,238; and (ii) Non-Medicare eligible employees and retirees - \$1,626.

(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 1992-93 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible employees and retirees - \$1,321; and (ii) Non-Medicare eligible employees and retirees - \$1,736.

PART 31.—DEPARTMENT OF INSURANCE

Requested by: Representatives Bowman, N.J. Crawford, Diamont, Senator Martin of Guilford

—INSURANCE STUDY OF HEALTH INSURANCE COVERAGE OF WOMEN
NEEDING PRENATAL AND DELIVERY HEALTH SERVICES

Sec. 189. (a) The Department of Insurance, in conjunction with the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, and the Department of Human Resources, Division of Medical Assistance, shall conduct a study to determine the extent to which there are women who lack health insurance covering prenatal and delivery services; and to determine the gaps in private and self-funded health insurance coverage. Not later than March 1, 1992, the Department of Insurance shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the progress of this study.

(b) Of the funds appropriated to the Department of Insurance in this act, \$40,000 is allocated for the study required by this act. The Department may contract for clerical or professional staff or any other services it requires in the course of this study.

Requested by: Representatives Bowman, N.J. Crawford, Senators Perdue, Martin of Guilford

—MEDICAL DATABASE/DATA FROM ALL HEALTH CARE PROVIDERS

Sec. 189.1. (a) G.S. 131E-212(b) is amended by adding the following new subdivision to read:

"(9) The Commission shall implement plans for the submission of data from all health care providers beginning with the free-standing ambulatory surgery centers."

(b) The Medical Database Commission shall report its progress on expanding its database by June 1, 1992, to the General Assembly and to the Fiscal Research Division.

(c) Section 208(d) of Chapter 757 of the 1985 Session Laws is repealed.

PART 32.—OFFICE OF STATE AUDITOR

Requested by: Representatives Bowman, N. J. Crawford, Senator Martin of Guilford

—INFORMATION FROM PRIVATE ORGANIZATIONS RECEIVING STATE
FUNDS AND FROM STATE AGENCIES PROVIDING THESE
FUNDS/INFORMATION FROM STATE AGENCIES JUSTIFYING
APPROPRIATIONS REQUESTS

Sec. 190. (a) G.S. 143-6.1 reads as rewritten:

"§ 143-6.1. **Information from private organizations receiving State ~~funds.~~ funds; information from State departments and agencies providing State funds.**

Every ~~private person,~~ corporation, organization, and institution which receives, uses or expends any State funds shall use or expend such funds only for the purposes for which such State funds were appropriated by the General Assembly or collected by the State.

Each ~~private person,~~ corporation, organization, and institution which receives, uses or expends State funds in the amount of twenty-five thousand dollars (\$25,000) or more

annually, except when the funds are ~~compensation~~ for the purchase of goods or services, shall file annually with the State Auditor and with the Joint Legislative Commission on Governmental Operations ~~a financial statement~~ statements in such form and on such schedule as shall be prescribed by the State Auditor, and shall furnish to the State Auditor for audit all books, records and other information as shall be necessary for the State Auditor to account fully for the receipt, use and expenditure of State funds. Each such ~~private person, corporation, organization, and institution~~ shall furnish such additional financial or budgetary information as shall be requested by the State Auditor or by the Joint Committee on Governmental Operations. All financial statements furnished to the State Auditor or to the Joint Legislative Commission on Governmental Operations pursuant to this section, and any audits or other reports prepared by the State Auditor, shall be public records.

Each State department and agency shall identify to the State Auditor each corporation, organization, and institution to which State funds received by the department or agency have been provided, except for the purchase of goods and services, and submit documents to the State Auditor for approval in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.

The receipt, use or expenditure of State funds by a ~~private person, corporation, organization, and institution~~ shall not, in and of itself, make or constitute such ~~person, corporation, organization, or institution~~ a State agency."

(b) G.S. 143-6 reads as rewritten:

"§ 143-6. Information from departments and agencies asking State aid.

(a) On or before the first day of September ~~biennially~~, in the even-numbered years, each of the departments, bureaus, divisions, officers, boards, commissions, institutions, and other State agencies and undertakings receiving or asking financial aid from the State, or receiving or collecting funds under the authority of any general law of the State, shall furnish the Director all the information, data and estimates which he may request with reference to past, present and future appropriations and expenditures, receipts, revenue, and income.

(b) Any department, bureau, division, officer, board, commission, institution, or other State agency or undertaking desiring to request financial aid from the State for the purpose of constructing or renovating any State building, utility, or other property development (except a railroad, highway, or bridge structure) shall, before making any such request for State financial aid, submit to the Department of Administration a statement of its needs in terms of space and other physical requirements, and shall furnish the Department with such additional information as it may request. The Department of Administration shall then prepare preliminary studies and cost estimates for the use of the requesting department, bureau, division, officer, board, commission, institution, or other State agency or undertaking in presenting its request to the Director of the Budget.

(c) On or before the first day of September in the even-numbered years, each of the departments, bureaus, divisions, officers, boards, commissions, institutions, and other State agencies receiving or asking financial aid or support from the State, under

the authority of any general law of the State, shall furnish the Director with the following information:

- (1) The amount of State funds disbursed in the immediately preceding two fiscal years and the purpose for which the funds were disbursed and used, the amount being requested as continuation funds for the upcoming fiscal year, and the justification for continued State support; and
- (2) Justification for continued State support shall include information on the extent of the public benefit being derived from State support.

(d) The Office of State Budget and Management and the Director of the Budget shall provide to the General Assembly, on or before January 15 of each odd-numbered year, a report that adequately and fairly presents the information required in this section."

(c) This section does not apply to the General Assembly or its membership.

PART 32.1.—DEPARTMENT OF REVENUE

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—GOVERNMENT SALES TAX REFUND

Sec. 190.1. (a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(16b) 'State agency' means a unit of the executive, legislative, or judicial branch of State government, such as a department, a commission, a board, a council, or The University of North Carolina. The term does not include a local board of education."

(b) G.S. 105-164.14 reads as rewritten:

"§ 105-164.14. Certain refunds authorized.

(a) Interstate Carriers. Any person engaged in transporting persons or property in interstate commerce for compensation who is subject to regulation by, and to the jurisdiction of, the Interstate Commerce Commission or the United States Department of Transportation and who is required by either such federal agency to keep records according to its standard classification of accounting or, in the case of a small certificated air carrier, is required by the U.S. Department of Transportation to make reports of financial and operating statistics, may secure a refund from the Secretary of Revenue with respect to sales or use tax paid by such person on purchases or acquisitions of lubricants, repair parts and accessories in this State for motor vehicles, railroad cars, locomotives, and airplanes operated by such person, upon the conditions described below. The Secretary of Revenue shall prescribe the periods of time, whether monthly, quarterly, semiannually or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following such periods, an application for refund may be made. An applicant for refund shall furnish such information as the Secretary may require, including detailed information as to

lubricants, repair parts and accessories wherever purchased, whether within or without the State, acquired during the period with respect to which a refund is sought, and the purchase price thereof, detailed information as to sales and use tax paid in this State thereon, and detailed information as to the number of miles such motor vehicles, railroad cars, locomotives, and airplanes were operated both within this State, and without this State, during such period, together with satisfactory proof thereof. The Secretary shall thereupon compute the tax which would be due with respect to all lubricants, repair parts and accessories acquired during the refund period as though all such purchases were made in this State, but only on such proportion of the total purchase prices thereof as the total number of miles of operation of such applicants' motor vehicles, railroad cars, locomotives, and airplanes within this State bears to the total number of miles of operation of such applicants' motor vehicles, railroad cars, locomotives and airplanes within and without this State, and such amount of sales and use tax as the applicant has paid in this State during said refund period in excess of the amounts so computed shall be refunded to the applicant.

(b) Nonprofit Corporations. The Secretary of Revenue shall make refunds semiannually to hospitals not operated for profit (including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E), educational institutions not operated for profit, churches, orphanages and other charitable or religious institutions and organizations not operated for profit of sales and use taxes paid under this Article, except under G.S. 105-164.4(4a) and G.S. 105-164.4(4c), by such institutions and organizations on direct purchases of tangible personal property for use in carrying on the work of such institutions or organizations. Sales and use tax liability indirectly incurred by such institutions and organizations on building materials, supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired for such institutions and organizations for carrying on their nonprofit activities shall be construed as sales or use tax liability incurred on direct purchases by such institutions and organizations, and such institutions and organizations may obtain refunds of such taxes indirectly paid. The Secretary of Revenue shall also make refunds semiannually to all other hospitals (not specifically excluded herein) of sales and use tax paid by them on medicines and drugs purchased for use in carrying out the work of such hospitals. This subsection does not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c). In order to receive the refunds herein provided for, such institutions and organizations shall file a written request for refund covering the first six months of the calendar year on or before the fifteenth day of October next following the close of said period, and shall file a written request for refund covering the second six months of the calendar year on or before the fifteenth day of April next following the close of that period. Such requests for refund shall be substantiated by such proof as the Secretary of Revenue may require, and no refund shall be made on

applications not filed within the time allowed by this section and in such manner as the Secretary may require. ~~Notwithstanding the foregoing provisions of this subsection, the constituent institutions of The University of North Carolina may obtain in the manner prescribed by this Article the refund of sales and use tax paid by them on or after January 1, 1992, for tangible personal property acquired by them through the expenditure of contract and grant funds.~~

(c) Certain Governmental Entities. Upon receipt of timely applications for refund, the Secretary of Revenue shall make refunds annually to all governmental entities, as hereinafter defined, of sales and use tax paid under this Article, except under G.S. 105-164.4(4a) and G.S. 105-164.4(4c), by said governmental entities on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by such governmental entities on building materials, supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired which is owned or leased by such governmental entities shall be construed as sales or use tax liability incurred on direct purchases by such governmental entities, and such entities may obtain refunds of such taxes indirectly paid. The refund provisions contained in this subsection shall not apply to any governmental entities not specifically named herein. In order to receive the refund herein provided for, governmental entities shall file a written request for said refund within six months of the close of the fiscal year of the governmental entities seeking said refund, and such request for refund shall be substantiated by such records, receipts and information as the Secretary may require. No refunds shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may otherwise require. The term 'governmental entities,' for the purposes of this subsection, shall mean all counties, incorporated cities and towns, water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes, lake authorities created by a board of county commissioners pursuant to an act of the General Assembly, sanitary districts, regional councils of governments created pursuant to G.S. 160A-470, area mental health, mental retardation, and substance abuse authorities (other than single-county area authorities) established pursuant to Article 4 of Chapter 122C of the General Statutes, district health departments, regional planning and economic development commissions created pursuant to G.S. 158-14, regional sports authorities created pursuant to G.S. 160A-479, regional economic development commissions created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-391, metropolitan sewerage districts and metropolitan water districts in this State, the North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes, the North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes, and the Rockingham County Airport Authority. Notwithstanding the foregoing provisions of this subsection, the constituent institutions of The University of North Carolina may obtain in the manner prescribed by this subsection a refund of sales and use tax paid by them on or after January 1, 1992, for tangible personal property acquired by them through the expenditure of contract and grant funds.

(d) Penalties for Late Applications. Refunds made pursuant to applications filed after the dates specified in subsections (b) and (c) above shall be subject to the following penalties for late filing: applications filed within 30 days after said dates, twenty-five percent (25%); applications filed after 30 days but within six months after said dates, fifty percent (50%). However, refunds which are applied for after six months following said dates shall be barred.

(e) State Agencies. The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is being erected, altered, or repaired and is owned or leased by the State agency. This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

(c) This section is effective upon ratification. G.S. 105-164.14(e), as enacted by this section, applies to property purchased on or after April 1, 1991. Notwithstanding the provisions of G.S. 105-164.14(e), as enacted by this section, every State agency to which that provision applies shall, within 15 days after the date this act is ratified, file the application for a refund of taxes paid during the quarter that ends July 1, 1991.

Requested by: Representatives Bowman, N.J. Crawford, Senators Martin of Guilford, Basnight, Plyler

—DEPARTMENT OF REVENUE AUTOMATION PROPOSAL

Sec. 190.2. (a) The Department of Revenue shall present a written and verbal report not later than October 15, 1991, to a full meeting of the Information Technology Commission and to the Office of State Budget and Management on the emergency conditions that exist in its information systems operations. The Information Technology Commission shall make a recommendation to the Office of State Budget and Management concerning the nature of the emergency and a recommendation on whether funds should be expended from the Reserve for Data Processing Equipment in the Office of State Budget and Management to meet the emergency situation.

(b) The Information Technology Commission shall appoint from its membership a five-member subcommittee to analyze the Department of Revenue's proposal to acquire a mainframe computer and install tax administration software to enhance its integrated tax administration system. One of the five members of the subcommittee shall be the State Auditor, who shall serve as its chairman. The subcommittee shall rely on staff expertise from the Office of State Controller, State Information Processing Services (SIPS), the Department of Revenue, and management information systems staff in the other departments represented on the Information Technology Commission to prepare the analysis. This analysis shall address (i) whether the Department of Revenue's proposal is practical, (ii) the amount by which the proposal will increase tax collections, (iii) the amount of savings to the State the proposal will produce by improving tax efficiency, (iv) the amount of savings to the State that would result from the receipt of tax payments by electronic funds transfer pursuant to the enhanced automation system based on increased investment earnings on these payments due to the reduced time lag in receiving and processing the payments, and (v) any other relevant issues. The subcommittee's written analytic report, and any relevant materials obtained or prepared by the subcommittee, shall be presented to a full meeting of the Information Technology Commission not later than October 31, 1991. The Information Technology Commission shall deliver a report, incorporating the subcommittee's analysis and containing specific recommendations concerning the Department of Revenue's proposal, to the Fiscal Research Division and the Automated Systems Division of the General Assembly not later than December 31, 1991. The Information Technology Commission shall present its report and analysis to the Joint Legislative Commission on Governmental Operations on or before March 1, 1992.

PART 33.—DEPARTMENT OF CULTURAL RESOURCES

Requested by: Representatives Bowman, N.J. Crawford, Colton, Senator Martin of Guilford

—MUSEUM OF HISTORY/MODIFY DUTIES

Sec. 191. (a) G.S. 121-7(b) reads as rewritten:

"(b) Insofar as practicable, the North Carolina Museum of History shall accession and maintain records showing provenance, value, location, and other pertinent information on such furniture, furnishings, decorative items, and other objects as have historical or cultural importance and which are owned by or to be acquired by the State for use in the State Capitol. ~~Capitol and the Executive Mansion, and, upon request of the~~

~~Department of Administration, any other state-owned building.~~—When any such item or object has been entered in the accession records of the Museum of History, the custodian of such item or object shall, upon its removal from the premises upon which it was located or when it is otherwise disposed of, submit to the Museum of History sufficient details concerning its removal or disposition to permit an adequate entry in the accession records to the end that its location or disposition, and authority for such change, shall be showed therein."

(b) This section is effective upon ratification.

Requested by: Representatives Bowman, N.J. Crawford, Colton, Senator Martin of Guilford

—MUSEUM OF HISTORY CONTRACTS

Sec. 192. (a) G.S. 121-4 is amended by adding a new subdivision to read:

"(16) To enter into an agreement with a private nonprofit corporation for the management of facilities to provide food and beverages at the North Carolina Museum of History. Any net proceeds received by the private nonprofit corporation shall be devoted to the work of the Department. Any private nonprofit corporation entering into an agreement with the Department with regard to the management of the facilities may enter into further agreements with private persons or corporations concerning the operation of the facilities. The Department may enter into an agreement in regard to obtaining or installing equipment, furniture, and furnishings for such facilities."

(b) This section is effective upon ratification.

PART 34.—PUBLIC SCHOOLS

Requested by: Senators Ward, Warren, Basnight, Plyler

—TEACHER SALARY SCHEDULE

Sec. 193. (a) The following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "A" teachers for the 1991-92 fiscal year. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years</u> <u>Experience</u>	<u>1991-92</u> <u>Salary</u>
0	\$1,981
1	1,981
2	2,021
3	2,111
4	2,141
5	2,172
6	2,204
7	2,263
8	2,332

9	2,366
10	2,400
11	2,458
12	2,494
13	2,530
14	2,598
15	2,636
16	2,706
17	2,746
18	2,819
19	2,897
20	2,939
21	3,021
22	3,065
23	3,149
24	3,195
25	3,241
26	3,288
27	3,336
28	3,386
29+	3,436

Notwithstanding the salary schedule set out in this subsection, certified personnel of the public schools who are classified as "A"teachers for the 1991-92 fiscal year and who had 29 or more years of experience during the 1990-91 fiscal year, shall receive a monthly salary of \$3,487.

(b) The following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "G"teachers for the 1991-92 fiscal year. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years</u> <u>Experience</u>	<u>1991-92</u> <u>Salary</u>
0	\$2,105
1	2,105
2	2,147
3	2,241
4	2,273
5	2,306
6	2,339
7	2,404
8	2,469
9	2,505
10	2,541
11	2,609
12	2,647

13	2,685
14	2,724
15	2,798
16	2,875
17	2,916
18	2,998
19	3,042
20	3,125
21	3,170
22	3,259
23	3,306
24	3,399
25	3,447
26	3,497
27	3,548
28	3,600
29+	3,652

Notwithstanding the salary schedule set out in this subsection, certified personnel of the public schools who are classified as "G"teachers for the 1991-92 fiscal year and who had 29 or more years of experience during the 1990-91 fiscal year, shall receive a monthly salary of \$3,706.

(c) The rules adopted by the State Board of Education for allocating funds to individuals shall provide for (i) a seven and one-half percent (7.5%) salary increase for teachers with certification based on academic preparation at the six-year degree level; (ii) a ten percent (10%) salary increase for teachers with certification based on academic preparation at the doctoral degree level; and (iii) annual longevity pay at two and one-half percent (2.5%) of base salary only upon the completion of 25 years of State service.

Requested by: Representatives Fussell, Payne, Barnes, Senators Ward, Warren
 —SENATE BILL 2 FUNDS

Sec. 194. (a) Of the funds appropriated to administer the School Improvement and Accountability Act of 1989, Senate Bill 2 of the 1989 General Assembly, the sum of \$10,000,000 for the 1991-92 fiscal year shall be used only for staff development activities to assist local school administrative units in developing and implementing local school improvement plans. These funds shall not be used for differentiated pay. No local school administrative unit shall use more than its pro rata share of \$10,000,000 for staff development activities.

Staff development funds may be used for pay for substitute teachers, stipends for employees who participate in staff development activities outside of the regular work day, salary and benefits for instructors, and workshop expenses.

All funds allocated pursuant to this subsection for staff development that are not spent for that purpose shall revert on June 30, 1992.

(b) Of the funds appropriated to administer the School Improvement and Accountability Act of 1989, the sum of \$29,436,046 for the 1991-92 fiscal year shall be used only for differentiated pay, in accordance with this subsection. These funds shall not be used for staff development activities.

Within 30 days of the first teacher workday on the 1991-92 school calendar, each local board of education shall present to affected employees, for their review and vote, two options for differentiated pay for the 1991-92 school year only. The first differentiated pay option shall be a proposal to continue or modify, in accordance with the School Improvement and Accountability Act of 1989, its existing differentiated pay plan. The second differentiated pay option shall be a proposal for across-the-board bonuses for all affected employees. These across-the-board bonuses shall be an equal percent of the State-paid salary for each affected employee, except that the maximum amount any employee may receive shall be \$550.

The vote shall be by secret ballot. All of the certificated instructional staff members, instructional support staff members, and certificated administrators who are eligible to receive funds for differentiated pay under the School Improvement and Accountability Act of 1989 may vote. The local board shall immediately submit the option that receives a majority of all the votes cast to the Superintendent of Public Instruction for his approval. A differentiated pay plan shall become effective upon the approval of the Superintendent.

If a local board of education implements across-the-board bonuses for the 1991-92 school year, all funds not spent for that purpose shall revert on June 30, 1992.

(c) The total amount received by a local school administrative unit under this section shall be no more than 2% of the State-paid teachers' and administrators' salaries, and the employer's contribution for social security and retirement.

(d) This section does not apply to any funds appropriated for the career ladder pilot units.

With regard to a local school administrative unit that resulted from the merger of a career ladder pilot unit and another unit, this section shall apply only to funds received under this section to administer the School Improvement and Accountability Act of 1989.

(e) This section applies to the 1991-92 fiscal year only.

Requested by: Representatives Diamont, Payne, Fussell, Barnes, Senators Ward, Warren

—SALARY SCHEDULE FOR ADMINISTRATORS

Sec. 195. Prior to February 1, 1992, the State Board of Education shall develop a reasonable salary schedule for superintendents, assistant superintendents, associate superintendents, supervisors, directors, coordinators, evaluators, program administrators, principals, and assistant principals whose salaries are supported from the State's General Fund.

The State Board of Education shall also develop a reasonable schedule for implementing this salary schedule.

The State Board of Education shall report to the Joint Legislative Commission on Governmental Operations prior to February 1, 1992, on the salary schedule developed pursuant to this section and the proposed implementation schedule for this salary schedule.

This section shall not be construed to obligate the General Assembly to appropriate funds to implement the salary schedule developed pursuant to this section or to obligate the State Board of Education to implement the salary schedule.

Requested by: Representatives Barnes, Fussell, Payne, Rogers, Diamont, Nesbitt, Senators Ward, Warren

—BASIC EDUCATION PROGRAM

Sec. 196. (a) G.S. 115C-81(a) reads as rewritten:

"(a) The State Board of Education shall adopt a Basic Education Program for the public schools of the State. Before it adopts or revises the Basic Education Program, the State Board shall consult with an Advisory Committee, including at least eight members of local boards of education, that the State Board appoints from a list of nominees submitted by the North Carolina School Boards Association. The State Board shall report annually to the General Assembly on any changes it has made in the program in the preceding 12 months and any changes it is considering for the next 12 months.

The State Board of Education shall review the Basic Education Program in an effort to (i) simplify the Basic Education Program, especially the standard course of study and the core curriculum for all students, and (ii) assure that the Program adopted by the State Board and implemented by the local boards of education carries out the intent of the General Assembly to provide every student in the State equal access to a Basic Education Program. The State Board shall report the results of its review to the Joint Legislative Education Oversight Committee and to the General Assembly prior to March 15, 1992.

The State Board shall implement the Basic Education Program within funds appropriated for that purpose by the General Assembly and by units of local government. It is the intent of the General Assembly that until the Basic Education Program is fully funded, the implementation of the Basic Education Program shall be the focus of State educational funding. It is the goal of the General Assembly that the Basic Education Program be fully funded and completely operational in each local school administrative unit by July 1, 1995.

It is further a goal of the General Assembly to provide supplemental funds to low-wealth counties to allow those counties to enhance the instructional program and student achievement."

(b) G.S. 115C-12(9) reads as rewritten:

"(9) Miscellaneous Powers and Duties. – All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

a. To certify and regulate the grade and salary of teachers and other school employees.

- b. To adopt and supply textbooks.
- c. To adopt rules requiring all local boards of education to implement the Basic Education Program on an incremental basis within funds appropriated for that purpose by the General Assembly and by units of local government. Beginning with the 1991-92 school year, the rules shall require each local school administrative unit to implement fully the standard course of study in every school in the State in accordance with the Basic Education Program so that every student in the State shall have equal access to the curriculum as provided in the Basic Education Program and the standard course of study.

The Board shall establish benchmarks by which to measure the progress that each local board of education has made in implementing the Basic Education Program. The Board shall report to the Joint Legislative Education Oversight Committee and to the General Assembly by December 31, 1991, and by February 1 of each subsequent year on each local board's progress in implementing the Basic Education Program, including the use of State and local funds for the Basic Education Program.

The Board shall develop a State accreditation program that meets or exceeds the standards and requirements of the Basic Education Program. The Board shall require each local school administrative unit to comply with the State accreditation program to the extent that funds have been made available to the local school administrative unit for implementation of the Basic Education Program.

The Board shall use the State accreditation program to monitor the implementation of the Basic Education Program.

- c1. To issue an annual 'report card' for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account demographic, economic, and other factors that have been shown to affect student performance.
- c2. To develop management accountability indicators to measure the efficiency and appropriate use of staff in each school and at the administrative office. Staff development for school administrators shall be a high priority of the Department of Public Instruction.
- d. To formulate rules and regulations for the enforcement of the compulsory attendance law.

- e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters."

- (c) G.S. 115C-238.6(a) reads as rewritten:

"(a) Prior to June 30 each year, the State Superintendent shall review local school improvement plans submitted by the local school administrative units in accordance with policies and performance indicators adopted by the State Board of Education. If the State Superintendent approves the plan for a local school administrative unit, that unit shall participate in the Program for the next fiscal year.

If a local plan contains a request for a waiver of State laws, regulations, or policies, in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine whether and to what extent the identified laws, regulations, or policies should be waived. The State Superintendent shall present that plan and his determination to the State Board of Education. If the State Board of Education deems it necessary to do so to enable a local unit to reach its local accountability goals, the State Board, only upon the recommendation of the State Superintendent, may grant waivers of:

- (1) State laws pertaining to class size, teacher certification, assignment of teacher assistants, the use of State-adopted textbooks, and the purposes for which State funds for the public schools may be ~~used, and used:~~ Provided, however, the State Board of Education shall not permit the use of funds for teachers for expanded programs under the Basic Education Program for any other purpose;
- (2) All State regulations and policies, except those pertaining to State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-325, health and safety codes, compulsory school attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

(d) The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee and to the General Assembly before May 1, 1992, on the methods used to measure student achievement.

(e) Funds appropriated to the Department of Public Education for the 1991-93 fiscal biennium to be used in completing the funding of teachers for expanded programs under the Basic Education Program shall be used by local school administrative units (i) to implement fully the standard course of study in every school in the State in accordance with the Basic Education Program so that every student in the State shall have equal access to the curriculum provided for therein, and (ii) to restore local teaching positions that may have been deleted as a result of budget cuts contained in this act.

The State Board of Education shall not waive, in accordance with G.S. 115C-238.6(a), the requirement that all local schools use these funds for teachers for expanded programs to implement fully the standard course of study in every school in the State.

(f) It is the intent of the General Assembly that base budget reductions made in this act in clerical positions for local school administrative units be taken to the extent possible in central office positions and not in school-based positions.

Requested by: Representatives Barnes, Diamont, Nesbitt, Payne, Fussell, Senators Ward, Warren

—EXTENDED SCHOOL DAY

Sec. 197. G.S. 115C-84(a) reads as rewritten:

"(a) School Day. – The length of the school day shall be determined by the several local boards of education for all public schools in their respective local school administrative units, and the minimum time for which teachers shall be employed in the schoolroom or on the grounds supervising the activities of children shall not be less than six hours: Provided, the several local boards of education may adopt rules and regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the first, second, and third grades to attend school for a period less than six hours. The superintendent of the several local boards of education, in the event of an emergency, act of God, or any other conditions requiring the termination of classes before six hours have elapsed, may suspend the operation of any school for that particular day without loss of credit to the pupil or loss of pay to the teacher.

The General Assembly urges the local boards of education to expand the length of the school day so that it includes at least six hours of instructional time."

Requested by: Representatives Barnes, Fussell, Payne, Diamont, Nesbitt, Senators Ward, Warren

—SCHOOL-TO-WORK TRANSITION

Sec. 198. G.S. 115C-81(a1) reads as rewritten:

"(a1) The Basic Education Program shall describe the education program to be offered to every child in the public schools. It shall provide every student in the State equal access to a Basic Education Program. Instruction shall be offered in the areas of arts, communication skills, physical education and personal health and safety, mathematics, media and computer skills, science, second languages, social studies, and vocational education.

Instruction in vocational education under the Basic Education Program shall be based on factors including:

- (1) The integration of academic and vocational education;
- (2) A sequential course of study leading to both academic and occupational competencies;
- (3) Increased student work skill attainment and job placement;
- (4) Increased linkages, where geographically feasible, between public schools and community colleges, so the public schools can emphasize

- academic preparation and the community colleges can emphasize specific job training; and
- (5) Instruction and experience, to the extent practicable, in all aspects of the industry the students are prepared to enter."

Requested by: Representatives Payne, Fussell, Barnes, Nesbitt, Diamont, Senators Basnight, Plyler, Barnes, Ward, Warren
—OUTCOME-BASED EDUCATION

Sec. 199. (a) Article 16 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 5. Outcome-Based Education Program.

"§ 115C-238.12. Purpose of program.

An outcome-based education program is a program in which expectations for student achievement are clearly stated in terms of knowledge, skills, and attitudes. Students develop skills and attitudes to maximize the acquisition of knowledge. The program recognizes that achievement occurs as a result of individual and developmental progress towards goals, and reflects that students learn at different rates using varying learning styles. Outcome-based education measures achievement periodically throughout the learning process and is the criteria for high school graduation. Measurement of student achievement is implemented by teachers to complement varied learning growth and styles. The results of those measurements are used to determine when a student understands and has mastered the material and is ready to move forward in the learning process.

"§ 115C-238.13. Implementation of the project by the State Board of Education.

(a) The State Board of Education shall develop and implement an outcome-based education program. The State Board of Education shall select four sites to participate in the program for five fiscal years beginning with the 1992-93 fiscal year. The first year of the project shall be a year for the sites to plan their projects. The remaining four years shall be to implement the projects and to demonstrate their effectiveness.

(b) The State Board of Education shall adopt expectations for student achievement, necessary for students to function successfully in the next century. These expectations shall be consistent with national education goals recommended by the National Governors' Association in 1990. The State Board of Education, after consultation with the Board of Governors of The University of North Carolina, the State Board of Community Colleges, representatives of independent colleges, representatives of the business community, representatives of the Department of Public Instruction, representatives of local school administrative units, principals, teachers, and parents, shall adopt proficiencies that are required for graduation from high school. These expectations and proficiencies shall be adopted no later than June 15, 1992, and shall be used by the sites to develop their local outcome-based education projects.

The proficiencies that are required for graduation from high school may include:

- (1) Writing – High school graduates will be able to organize complex, demanding, and extended subject matter clearly and effectively. They will produce structured writings in which relationships between

successive paragraphs are signaled by connective words and phrases. They will punctuate their writing so that meaning and structure are clear.

(2) Reading – High school graduates will be able to make independent and discriminating selections from a range of reference materials; retrieve information from those materials using techniques such as skimming; and evaluate and synthesize information from different parts of a text or different texts.

(3) Mathematics – High school graduates will be able to present a set of complex data in a simplified form using a variety of diagrams and graphs.

(c) The State Board of Education, the Board of Governors of The University of North Carolina, and the State Board of Community Colleges shall work jointly to develop a mechanism by which the institutions of higher education accept certification of proficiencies on high school transcripts in lieu of Carnegie units.

"§ 115C-238.14. Selection of sites.

(a) No later than October 10, 1991, the State Board of Education shall develop a competitive process for the selection of project sites.

(b) No later than November 30, 1991, the Department of Public Instruction shall initiate the competitive process for the selection of project sites and shall conduct regional briefings for local school administrative units interested in submitting proposals. The regional briefings shall provide detailed information about outcome-based education models so local school administrative units can decide whether to compete for selection as a project site.

(c) No later than February 29, 1992, local school administrative units shall submit their proposals to the Department of Public Instruction. The proposal may cover all or part of the schools in a local school administrative unit.

The proposal shall include information regarding the local school administrative unit's plan for, ability to, and commitment to complying with the following requirements for local programs:

(1) The program shall ensure that all students have access to a common core of knowledge and that all students are treated equitably.

(2) Student advancement shall be based on the mastery of the proficiencies adopted by the State Board of Education pursuant to G.S. 115C-238.13(b).

(3) Students shall be allowed to progress at different rates; however, expectations for progress shall be based on the goal that all students master the proficiencies required for high school graduation. Computer assisted, personal education plans shall be available for every student.

(4) Parents and guardians shall be involved in a student's selection of high school completion options.

(5) Teachers and principals shall have a major role in development of local projects.

- (6) A majority of the teachers and principals who will participate in the pilot project shall approve the proposal for selection as a pilot site and the plans for the local program before they are submitted to the Department of Public Instruction.
- (7) Programs shall provide each student a school-based adult advocate to foster self-esteem, protect learning options, ensure that student needs are being met, and ensure that students are being treated equitably.
- (8) Projects shall be shared with the public. Annual reports describing program goals, activities, and accomplishments shall be made available to the public. The reports shall contain specific information regarding the contributions of teachers, administrators, and the local board of education to the program, and to student progress under the program.

(d) The Department of Public Instruction shall review the proposals and shall transmit its recommendations regarding the sites to the State Board of Education no later than April 30, 1992. The Department of Public Instruction shall involve an advisory committee comprised of business leaders, legislators, school board members, public school administrators, and other educators in the review process.

(e) The State Board of Education shall select the project sites no later than June 15, 1992. The State Board shall base its decision on the local school administrative units' plans for, ability to, and commitment to complying with the requirements for local programs set out in subsection (c) of this section.

"§ 115C-238.15. Development of local programs by the project sites.

(a) From June 15, 1992, through March 15, 1993, the project sites shall develop their local programs. No later than March 15, 1993, the sites shall submit their plans to the Department of Public Instruction for review. No later than May 30, 1993, the Department shall review the plans and work with the sites to assure that the plans carry out the provisions of this Part.

(b) The Department of Public Instruction shall provide technical assistance to the sites in developing their local programs.

(c) In developing its local plan, each local school administrative unit shall select the outcome-based education model to be followed. Each local school administrative unit shall determine the instructional programs and strategies used to develop student proficiencies at its site. Under the plan, teachers shall determine when the proficiencies of a group of students are assessed; provided, however, State-administered tests shall be used to test proficiencies at a site no more than four times a year. Student advancement shall be determined by school-based personnel assigned to oversee the instructional program of a group of students.

(d) In developing and administering local projects, local boards of education need broad decision-making authority so that teachers and administrators at the sites can experiment with the instructional activities that meet the instructional needs in that particular setting. Each local school administrative unit shall set forth in its plan, with specificity, those aspects of the plan that would be enhanced by flexibility with regard to statutes and regulations. The State Board of Education may grant each local school

administrative unit such flexibility with regard to statutes and regulations as it finds necessary and appropriate to implement a local program (i) so long as the projects and activities are carried out within total funds available for that purpose, and (ii) so long as the State Board of Education does not find as a fact that the flexibility is being abused.

The State Board of Education shall report such flexibility with regard to statutes and regulations contained in any projects or proposed changes to projects to the Joint Legislative Commission on Governmental Operations.

(e) Local projects may include model accountability programs that meet the needs of the project sites. To the extent that the State Board of Education finds that these accountability programs provide sufficient data for oversight, they may be used instead of other State-mandated programs.

(f) Local projects shall include plans to train and retrain teachers, administrators, and school board members to implement the projects.

"§ 115C-238.16. Approval and implementation of plans.

(a) Between March 15, 1993, and June 1, 1993, the State Board of Education shall receive plans for projects from the project sites and the comments of the Department of Public Instruction regarding the projects.

(b) No later than June 15, 1993, the State Board of Education shall approve the plans for the projects, approve the plans with modifications, or reject the plans.

(c) The project sites shall begin implementation immediately of projects approved, or approved with modifications, by the State Board.

"§ 115C-238.17. Annual assessment and reapproval of plans.

(a) Between March 15 and May 15 of each subsequent year of the project, the projects shall submit to the Department of Public Instruction any data requested by the Department of Public Instruction or the State Board of Education and any proposed changes in the projects. No later than May 30 each year, the Department shall review the data and the proposed changes in the plans for the projects and shall work with the project sites to assure that the plans carry out the provisions of this Part.

(b) Between March 15 and June 1 of each subsequent year, the State Board of Education shall receive the data requested and the proposed changes in plans for projects from the project sites and shall receive the comments of the Department of Public Instruction regarding the data and the proposed changes in the projects. The State Board shall also consider the results of audits and evaluations performed pursuant to G.S. 115C-238.18.

(c) No later than June 15 of each subsequent year, the State Board of Education shall reapprove the plans and any changes for the projects, reapprove the plans and any changes with modifications, or reject the plans.

(d) The project sites shall begin implementation immediately of projects reapproved, or reapproved with modifications, by the State Board.

"§ 115C-238.18. Evaluation of program.

(a) State-Level Program Evaluation Procedures. – A program audit shall be conducted by the Office of the State Auditor following the first and second years of the program. The audit shall certify that the State Board of Education and State Department of Public Instruction have implemented procedures as specified by the General

Assembly. The audit shall focus on the autonomy and flexibility given to local school administrative units in the development of outcome-based education models and plans so as to determine if the appropriate amount of autonomy and flexibility was sought and granted and if the autonomy and flexibility were used properly.

(b) Local-Level Program Evaluation Procedures. –

- (1) The program audit conducted by the Office of the State Auditor following the second year of the program shall include a local-level procedures component. The audit shall certify that local plans contain elements as specified by the General Assembly. The audit shall also certify that teachers and building level administrators were involved in the development of plans.
- (2) The Department of Public Instruction shall conduct a process evaluation of each pilot site following the second through sixth years of the program. The evaluation shall determine how well plans have been implemented. The evaluation shall focus on staff development, organizational and instructional activities, and the involvement and acceptance of the project by all concerned groups including the board of education, administrators, teachers, parents, students, and the business community.

(c) Student-Level Outcomes Evaluation. –

- (1) Local pilot sites shall develop and implement accountability models designed to measure student outcomes. The plans shall include the use of tests available through the State's testing program. Accountability models shall be part of the site plans submitted to the State Board for approval.
- (2) The State Department of Public Instruction shall audit the implementation of accountability models. Audits shall be conducted following the third, fourth, fifth, and sixth years of the program.
- (3) The State Department of Public Instruction shall conduct a summative evaluation following the sixth year of the program. Student outcomes shall be the focus of the summative evaluation.

(d) Reports to the General Assembly. – The State Board of Education shall submit a summative evaluation report on the projects to the General Assembly no later than March 15, 1998.

"§ 115C-238.19. Solicitation of private funds for additional sites.

The State Board of Education shall design and implement a program for soliciting private funds to support the outcome-based education pilot sites. As funds become available, the State Board may request that the General Assembly authorize additional sites to participate in the program."

(b) Of the funds appropriated to the Department of Public Education, the sum of \$100,000 for the 1991-92 fiscal year shall be used for advance planning for the outcome-based education program at four sites pursuant to subsection (a) of this section and the sum of \$3,000,000 for the 1992-93 fiscal year shall be used to implement the program at the four pilot sites. These funds shall be allocated on the basis of \$500.00

for each State-funded certificated employee participating in the program. These funds shall be used (i) for staff development activities, including planning activities, for teachers, administrators, and school board members, (ii) to pay substitute teachers while teachers are engaged in staff development activities, and (iii) to pay 10-month employees for participating in staff development activities, including planning activities during the summer.

It is the intent of the General Assembly to appropriate an additional \$3,000,000 each year for the 1993-94 through 1996-97 fiscal years to complete the implementation of the outcome-based education program at the four sites.

(c) Of the funds appropriated for aid to local school administrative units for the 1991-92 fiscal year, the State Board of Education may allocate \$2,019,940 to the Department of Public Instruction to implement and administer end-of-course tests, to continue the Preliminary Scholastic Aptitude Testing (PSAT) Program, and to continue the National Assessment of Educational Program (NAEP) testing.

Requested by: Representatives Diamont, Payne, Fussell, Barnes Nesbitt, Senators Ward, Warren

—SCHOOL ADMINISTRATOR TRAINING AND CERTIFICATION

Sec. 200. (a) G.S. 115C-284 reads as rewritten:

"§ 115C-284. Method of selection and requirements.

(a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(c) The State Board of Education shall have entire control of certifying all applicants for supervisory and professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes. Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, ~~1972~~-1972: Provided, further, that the Board shall not issue provisional certificates for principals and assistant principals.

(c1) It is the policy of the State of North Carolina to maintain the highest quality principal and assistant principal education programs in order to enhance the competence of professional personnel certified in North Carolina. To ensure that principal and assistant principal preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education shall submit to the General Assembly not later

than March 1, 1992, a plan to promote this policy. In developing this plan, the State Board shall consider (i) requiring these programs to include additional preparation for site-based decision making and for the additional autonomy being granted to local schools units, (ii) enhancing program entrance requirements to include assessment of an applicant's ability to complete the program and to perform as a principal, and (iii) enhancing the overall content of the programs.

The State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors and such other public and private agencies as are necessary, shall refine the several certification requirements, standards for approval of institutions of principal and assistant principal education, standards for institution-based innovative and experimental programs, and standards for improved efficiencies in the administration of the approved programs.

(d) Repealed by Session Laws 1989, c. 385, s. 1.

(d1) It is the policy of the State of North Carolina that, subsequent to the adoption of a system of classroom teacher differentiation and prerequisites to candidacy for principal, a classroom teacher must have attained at least the second level of differentiation, have at least four years of classroom teaching experience, and possess, at least, a Masters Degree in Education Administration. This subsection shall not apply to educational personnel certified as of July 1, 1984.

(e) It shall be unlawful for any board of education to employ or keep in service any principal or supervisor who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

(f) The allotment of classified principals shall be one principal for each duly constituted school with seven or more state-allotted teachers and shall be included in the calculation of the allotment of general teachers set out in G.S. 115C-301(b)(i).

(g) Local boards of education shall have authority to employ supervisors in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the local school administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such supervisors shall be assigned by the superintendent with the approval of the board of education.

(h) All principals and supervisors employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: ~~Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.~~ Education."

(b) G.S. 115C-289 reads as rewritten:

"§ 115C-289. Assignment of principal's duties to assistant or acting principal; duties of State-funded assistant principals.

(a) Any duty or responsibility assigned to a principal by statute, State Board of Education regulation, or by the superintendent may, with the approval of the local board

of education, be assigned by the principal to an assistant principal designated by the local board of education or to an acting principal designated by a principal.

(b) ~~Except as provided in subsection (e), all~~ All persons employed as assistant principals in State-allotted positions, or as assistant principals in full-time positions regardless of funding source, in the public schools of the State or in schools receiving public funds, shall, in addition to other applicable requirements, be required either to hold or be qualified to hold a principal's certificate in compliance with applicable law and in accordance with the regulations of the State Board of Education. ~~Except as provided in subsection (e), it~~ It shall be unlawful for any board of education to employ or keep in service any assistant principal who neither holds nor is qualified to hold a principal's certificate in compliance with applicable law and in accordance with the regulations of the State Board of Education. ~~Nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.~~

(c) ~~Subsection (b) shall not apply to any person who was employed as an assistant principal in either a full or part time position during the 1986-87 school term until the first day of the 1990-91 school term. Such persons shall meet all other requirements which are applicable to teachers generally. In addition, the local board of education may in its discretion require that any person employed as an assistant principal make satisfactory progress, as determined by the local board, toward meeting the requirements for certification as a principal.~~

(d) Assistant principals paid from State funds shall not have regularly assigned teaching duties."

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

"§ 115C-12.1. Training of State Board members.

The State Board of Education shall establish minimum training requirements for members of the State Board of Education. All Board members shall participate in training programs, as required by the State Board."

(d) Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-50. Training of board members.

All members of local boards of education shall receive a minimum of 12 clock hours of training annually. The training shall include but not be limited to public school law, public school finance, and duties and responsibilities of local boards of education. The training may be provided by the North Carolina School Boards Association, the Institute of Government, or other qualified sources at the choice of the local board of education."

(e) Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-11.2. Duties regarding programs in education administration.

The Board of Governors shall direct the constituent institutions with programs in education administration to revise the programs to reflect any increased standards required for programs approved by the State Board of Education, including new requirements for school-based leadership in the public schools. The Board of

Governors shall monitor the programs and devise an assessment plan for all programs leading to certification in education administration."

(f) Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1991-93 fiscal biennium, the sum of \$150,000 for the 1991-92 fiscal year and the sum of \$570,000 for the 1992-93 fiscal year shall be used to expand the Principals Executive Program operated by the Institute of Government. Of these funds, the sum of \$150,000 for the 1991-92 fiscal year and the sum of \$150,000 for the 1992-93 fiscal year shall be used to expand the program at the Chapel Hill site; the sum of \$420,000 for the 1992-93 fiscal year shall be used to provide the program at additional sites throughout the State and to offer the program to assistant principals.

Requested by: Representatives Holt, Payne, Fussell, Barnes, Senators Ward, Warren
—NO WAIVERS OF FUNDS FOR SCHOOL HEALTH COORDINATORS

Sec. 201. G.S. 115C-238.6(a) reads as rewritten:

"(a) Prior to June 30 each year, the State Superintendent shall review local school improvement plans submitted by the local school administrative units in accordance with policies and performance indicators adopted by the State Board of Education. If the State Superintendent approves the plan for a local school administrative unit, that unit shall participate in the Program for the next fiscal year.

If a local plan contains a request for a waiver of State laws, regulations, or policies, in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine whether and to what extent the identified laws, regulations, or policies should be waived. The State Superintendent shall present that plan and his determination to the State Board of Education. If the State Board of Education deems it necessary to do so to enable a local unit to reach its local accountability goals, the State Board, only upon the recommendation of the State Superintendent, may grant waivers of:

- (1) State laws pertaining to class size, teacher certification, assignment of teacher assistants, the use of State-adopted textbooks, and the purposes for which State funds for the public ~~schools~~ schools, except for funds for school health coordinators, may be used, and
- (2) All State regulations and policies, except those pertaining to State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-325, health and safety codes, compulsory school attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System."

Requested by: Representatives Payne, Fussell, Senators Basnight, Plyler
—SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Sec. 201.1. (a) The State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,000 students and (ii) to each county school administrative unit with an average daily membership of from

3,000 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per student. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position;
- (2) Provide four additional regular classroom teachers;
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study;
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership;
- (5) Provide a base for the consolidated funds allotment of at least \$150,000, excluding textbooks; and
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

(b) A county in which a local school administrative unit receives funds under this section shall use the funds to supplement and not supplant existing State and local funding for public schools.

The Local Government Commission shall analyze the budgets and the expenditures of school administrative units that receive funds under this section in light of their budgets and expenditures for the previous year and shall determine whether those funds were used to supplement and not supplant State and local funding for public schools. The Local Government Commission shall report the results of its study to the State Board of Education, the Joint Legislative Oversight Committee, and the Appropriations Committees of the Senate and the House of Representatives, prior to May 1, 1993.

- (c) As used in this section:
- (1) "Average daily membership" means the final average daily membership in the most recent year for which county current expense appropriations and adjusted property tax valuations are available.
 - (2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.
 - (3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

- (4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.
- (5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

Requested by: Representatives Payne, Fussell, Barnes, Senators Ward, Warren
—SUPPLEMENTAL FUNDING

Sec. 201.2. (a) The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, of the funds appropriated to the Department of Public Education, the sum of \$6,000,000 for the 1991-92 fiscal year and the sum of \$6,000,000 for the 1992-93 fiscal year shall be used for supplemental funds for schools. The State Board of Education shall allocate these funds to the counties in which the adjusted property tax base per student for that county is less than the State average adjusted property tax base per student. The amount each such county receives shall be its pro rata share of the funds appropriated for supplemental funding in this act, computed as follows:

- (1) Divide the county adjusted property tax base per student by the State adjusted property tax base per student;
- (2) Multiply the resulting amount by the State average current expense appropriations per student;
- (3) Subtract the resulting amount per student from the State average county current expense appropriations per student; and
- (4) Multiply the resulting amount by the average daily membership of students in the county.

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

This formula is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

(b) Funds received pursuant to this section shall be used only to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, and instructional supplies and equipment.

(c) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement and not supplant existing State and local funding for public schools.

The Local Government Commission shall analyze the budgets and the expenditures of school administrative units that receive funds under this section in light of their budgets and expenditures for the previous year and shall determine whether those funds were used to supplement and not supplant State and local funding for public schools. The Local Government Commission shall report the results of its study to the State Board of Education, to the Joint Legislative Education Oversight Committee, and to the Appropriations Committees of the Senate and the House of Representatives, prior to May 1, 1992, and May 1, 1993.

(d) Definitions. – As used in this act:

- (1) "Average daily membership" means the final average daily membership in the most recent year for which county current expense appropriations and adjusted property tax valuations are available.
- (2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county, and further adjusted using the ratio of the county's per capita income to the State average per capita income.
- (3) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
- (4) "Per capita income" means the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis.
- (5) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (6) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students who reside within the State.
- (7) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by counties in the annual county financial information report to the State Treasurer, divided by the total State average daily membership for that year.
- (8) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax

valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(e) Minimum Effort Required. – Counties that receive funding under this section shall maintain an effective county tax rate that is at least one hundred percent (100%) of the State average effective tax in the most recent year for which data are available. Any county that fails to maintain an effective county tax rate that is at least one hundred percent (100%) of the State average effective tax in the most recent year for which data are available shall refund to the State the entire amount of its allocation under this section.

(f) Counties that receive funds under this section shall report to the State Board of Education before March 1 each year on how they are using the funds for the fiscal year. The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1992, and May 1, 1993, on how the funds are being used.

PART 35.—DEPARTMENT OF COMMUNITY COLLEGES

Requested by: Representatives Fussell, Payne

—HOLD HARMLESS/COMMUNITY COLLEGES SERVING MILITARY BASES

Sec. 202. The State Board of Community Colleges may use funds available to it for the 1991-92 fiscal year to allot funds at the 1990-91 budget level to institutions whose enrollments were adversely affected by Operation Desert Storm so that those institutions can serve the returning troops. If the institutions do not need these additional funds to serve returning troops, the additional funds allotted pursuant to this section shall revert at the end of the 1991-92 fiscal year.

Requested by: Representatives Fussell, Payne, Senator Ward

—COMMUNITY COLLEGE TUITION INCREASE

Sec. 203. The State Board of Community Colleges shall adopt tuition rates beginning in the fall quarter of 1991 in the amount of eleven dollars and fifty cents (\$11.50) per credit hour up to a cap of 14 credit hours for in-State students and one hundred seven dollars and fifty cents (\$107.50) per credit hour with a cap of 14 hours for out-of-State students.

The State Board of Community Colleges shall adopt tuition rates beginning in the fall quarter of 1991 in the amount of thirty dollars (\$30.00) per course for occupational extension courses.

PART 36.—COLLEGES AND UNIVERSITIES

Requested by: Representatives Payne, Fussell

—NURSE MIDWIFERY FUNDS

Sec. 204. Of the funds appropriated to the Board of Governors of The University of North Carolina in this Title, \$95,000 for the 1991-92 fiscal year and \$95,000 for the 1992-93 fiscal year shall help fund a nurse midwifery education program at East Carolina University that will help fill the needs of the obstetrically underserved populations of the State. The program shall offer multiple track options for participating nurses; the multiple track options shall take into consideration the varying degrees of preparation. The program shall prepare participants for certification as nurse midwives. In order to maximize the impact of the training program on service provision to obstetrically underserved populations, an advisory committee shall be established and composed of a nurse midwife and a physician providing obstetrical services to a medically underserved population, two members of the Division of Maternal and Child Health, Department of Environment, Health, and Natural Resources, and two members of the Office of Rural Health and Resource Development, Department of Human Resources. This committee shall review all applicants to identify priority candidates who will meet the needs of the State's obstetrically underserved populations for consideration by the midwifery admissions committee. The advisory committee will also facilitate and promote the recruitment of interested nurses who have a commitment to practice in obstetrically underserved areas.

Requested by: Representatives Payne, Fussell, Senator Ward

—"OTHER"CATEGORY OF HEALTH AFFAIRS STUDENTS FUNDING LIMITS

Sec. 205. The Board of Governors of The University of North Carolina shall not provide any additional enrollment increase funds for growth in the "Other"category for continuing education in the Health Affairs budget code at the University of North Carolina at Chapel Hill until the fees budgeted for this category are increased to cover a greater proportion of the costs per contact hour.

Requested by: Representatives Nesbitt, Diamont, Senator Ward

—UNC ENROLLMENT/FACULTY

Sec. 206. In its allocation of the funds provided to the Board of Governors of The University of North Carolina for enrollment increases, the Board shall consider the impact of the changes in the student faculty ratio on each campus and shall use up to a maximum of \$500,000 per campus to ensure that no campus has to reduce the number of budgeted teaching positions below the number budgeted for the 1990-91 academic year. This section shall not apply to professional schools with separate budget codes or separate purposes within budget codes.

Requested by: Senator Basnight

—UNIVERSITY OF NORTH CAROLINA EVENT FEES AUTHORITY

Sec. 206.1. The Chancellor and Board of Trustees of each of the constituent institutions of The University of North Carolina may adopt rules to allow each constituent institution to charge an admission fee of up to one dollar (\$1.00) for any extra-curricular event that takes place in any facility of the institution. Funds generated

from these fees shall be used by each institution for books and other materials for the libraries at that institution.

Requested by: Representatives Hackney, Barnes, Payne, Fussell, Senators Basnight, Lee, Ward, Warren

—UNC FISCAL ACCOUNTABILITY/FLEXIBILITY

Sec. 206.2. (a) Chapter 116 of the General Statutes is amended by adding new sections to read:

"§ 116-44.6. Special responsibility constituent institutions.

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant exceptions or audit findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size.

"§ 116-44.7. Appropriations to special responsibility constituent institutions.

All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to each budget code of the institution for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), each special responsibility constituent institution may expend the General Fund monies so appropriated to it in the manner deemed by the Chancellor to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions. The quarterly allotment procedure established pursuant to G.S.143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions.

"§ 116-44.8. Reversions.

Of the General Fund current operations appropriations credit balance remaining in each budget code of a special responsibility constituent institution at the close of a fiscal

year, any amount greater than the percentage of the General Fund appropriations historically reverted to the State treasury over the preceding five fiscal years, multiplied by the General Fund appropriations for that budget code, may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The historic reversion percentage shall be determined by the Director of the Budget, after making adjustments for allotment reductions made to meet revenue shortfalls and to force credit balances during the preceding five fiscal years under the authority set forth in G.S. 143-25. Any special responsibility constituent institution that does not revert a percentage of the General Fund appropriations for the budget code equal to the five-year historic reversion rate established in this section shall cease to be a special responsibility constituent institution unless the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions. In this instance, the Board may allow the institution to remain a special responsibility constituent institution for one year to come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations.

"§ 116-44.9. Position management.

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with:

- (1) State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or
- (2) Policies and procedures of the Board of Governors if these positions are exempt from the State Personnel Act.

The results achieved by establishing and abolishing positions pursuant to the conditions set forth in subdivision (1) of this section shall be subject to postauditing by the Office of State Personnel. Implementation of personnel actions shall be subject to the availability of funds within the institution's current budget to fund the full annualized costs of these actions.

"§ 116-44.10. Impact on education.

The Board of Governors shall require each special responsibility constituent institution to include in its institutional effectiveness plan those assessment measures that are determined by the Board to be measures that will assure some standard measure of student learning and development in general undergraduate education at the special responsibility constituent institutions. The intent of this requirement is to measure the impact of G.S. 116-44.6 through G.S. 116-44.11, establishing and administering special responsibility constituent institutions, and their implementation on undergraduate student learning and development."

- (b) G.S. 143-53.1 reads as rewritten:

"§ 143-53.1. Setting of benchmarks; increase by Secretary.

On and after July 1, 1990, the expenditure benchmark prescribed by G.S. 143-52 with respect to competitive bid procedures and the bid value benchmark authorized by G.S. 143-53(2) with respect to rule making by the Secretary of Administration for competitive bidding shall be ten thousand dollars (\$10,000); provided, the Secretary of Administration may, in his discretion, increase the benchmarks effective as of the beginning of any fiscal biennium of the State commencing after June 30, 1992, in an amount whose increase, expressed as a percentage, does not exceed the rise in the Consumer Price Index during the fiscal biennium next preceding the effective date of the benchmark increase. For a special responsibility constituent institution of The University of North Carolina, the benchmark prescribed in this section shall be twenty-five thousand dollars (\$25,000) on and after July 1, 1991."

(c) Report of Results. The Board of Governors shall report quarterly on its decisions and directives implementing this section to the Joint Education Oversight Committee. The Board shall report to the 1993 General Assembly by March 31, 1994, on the fiscal savings, management initiatives, increased efficiency and effectiveness, and other outcomes made possible by the flexibility provided by this section to the special responsibility constituent institutions. The report shall include documentation of any reallocation of resources, the use of nonreverted appropriations, and any additional costs incurred. The Board shall require annual reports from the special responsibility constituent institutions, and shall recommend any changes needed in this section to the 1991 General Assembly, Regular Session 1992, or to the 1993 General Assembly.

(d) G.S. 116-37 is amended by inserting a new subsection to read:

"(e1) Finances – Patient/Hospital Benefit. – The Executive Director of the University of North Carolina Hospitals at Chapel Hill or the Director's designee, may expend operating budget funds, including State funds, of the University of North Carolina Hospitals at Chapel Hill for the direct benefit of a patient, when, in the judgment of the Executive Director or the Director's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Hospitals at Chapel Hill. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Hospitals at Chapel Hill for which the hospitals may bill and pursue recovery in the same way as allowed by law for recovery of other hospitals' charges for services that are unpaid.

These expenditures shall be limited to no more than seven thousand five hundred dollars (\$7,500) per patient per admission and shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility pending approval of third party entitlement benefits; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; (v) or to pay health insurance premiums. The Executive Director or the Director's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Hospitals at Chapel Hill advance anticipated government entitlement benefits for a patient's benefit, for which the patient

later receives a lump sum 'backpay' award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this backpay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Hospitals at Chapel Hill, if, prior to the disbursement of the backpay, the applicable State program has received notice from the University of North Carolina Hospitals at Chapel Hill of the advancement."

(e) The Executive Director of the University of North Carolina Hospitals at Chapel Hill shall report annually to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the fiscal results of subsection (d) of this section.

(f) This section is effective upon ratification. This section expires June 30, 1994.

Requested by: Senator Daniel

—UNC EDUCATIONAL CONSORTIA

Sec. 206.3. Of the funds appropriated to the Board of Governors of The University of North Carolina in this Title, \$450,000 in each year of the 1991-93 fiscal biennium shall be allocated by the Board to establish cooperative educational consortia at Western Carolina University, the University of North Carolina at Greensboro, and the University of North Carolina at Wilmington. These consortia shall link elementary and secondary education, higher education, and leadership in the business sector to:

- (1) Improve education practices and enhance economic development;
- (2) Focus research capabilities on educational issues and economic problems;
- (3) Provide momentum for restructuring of public education to meet the requirements of the modern era;
- (4) Seek grants and other funds for model projects on promising educational practices;
- (5) Provide training, educational, and leadership development opportunities; and
- (6) Provide other initiatives leading to improvements in education and economic development.

PART 37.—DEPARTMENT OF TRANSPORTATION

Requested by: Representative Nesbitt

—LEGISLATIVE SERVICES COMMISSION TO PAY FOR CHAIRMEN OF TRANSPORTATION SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS COMMITTEE TO ATTEND HIGHWAY OVERSIGHT COMMITTEE MEETINGS

Sec. 207. The Legislative Services Commission shall pay the costs of the attendance of the Chairmen of the Transportation Subcommittee of the House Appropriations Committee at all meetings of the Joint Legislative Highway Oversight Committee. These subsistence and travel expenses shall be as provided in G.S. 120-3.1.

Requested by: Representative Holt

—BIENNIAL BILLBOARD REPORT BY DEPARTMENT OF TRANSPORTATION

Sec. 208. The Department of Transportation shall make a biennial report to the General Assembly beginning on January 1, 1993, on its Off-Premise Sign Regulatory Program.

The report shall include:

- (1) The number of off-premise signs (billboards) that conform with State and local regulations and the number of off-premise signs that do not conform with State and local regulations in each county along federal-aid primary highways.
- (2) The number of conforming and nonconforming off-premise signs on State-owned railroad right-of-way.
- (3) The number of nonconforming off-premise signs removed during the fiscal year.
- (4) The number of permitted tree cuttings and the number of illegal tree cuttings in front of off-premise signs.
- (5) Expenses incurred in regulating off-premise signs and receipts from application and renewal permit fees.

Requested by: Representative McLaughlin

—MAINTENANCE OF STATE HIGHWAY BRIDGES

Sec. 209. G.S. 136-97(b) reads as rewritten:

"(b) The Department of Transportation, as part of maintaining the highways, bridges, and watercourses of this State, ~~shall~~ may haul all debris removed from on, under, or around a bridge to an appropriate disposal site for solid waste, where the debris shall be disposed of in accordance with law. ~~This requirement may be waived when bridge closure has an adverse impact on public safety or creates a significant hardship to the traveling public by restricting all access or necessitating a significant detour. In these instances, the minimum amount of debris which must be removed to restore service may be passed downstream.~~"

Requested by: Representative McLaughlin

—DEPARTMENT OF TRANSPORTATION FINANCIAL AND OPERATIONAL AUDIT

Sec. 210. (a) The State Auditor shall conduct a financial and operational audit of two Highway Divisions. The audit shall:

- (1) List the functions performed by the Division offices. Calculate the percentage of time spent on each major category of maintenance and construction work;
- (2) Analyze the equipment used in the Highway Divisions, with an emphasis on the amount of rental equipment utilized;
- (3) Study the staffing levels for construction and maintenance operations. Report on the ratio of workers to supervisors. Review Department of

Transportation procedures and criteria for establishing the size of maintenance crews;

- (4) Study whether construction and maintenance activities are being properly charged to appropriate accounts; and
- (5) Determine how maintenance workers are used during cold weather months and periods of inclement weather.

(b) The Fiscal Research Division shall cooperate with and assist the State Auditor in accomplishing this audit.

- (c) The audit shall be completed by May 1, 1992.

Requested by: Senator Plyler

—SECONDARY ROAD PROJECTS

Sec. 210.1. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-44.2C. Special appropriations for State construction.

Special appropriations for the construction of State highways may be used for the planning, design, right-of-way acquisition, and construction of highway projects for the State Highway System and Federal Aid System, including secondary roads, contained in the Transportation Improvement Program prepared pursuant to G.S. 143B-350(f)(4). Funding from the special appropriations used for secondary road projects in the Transportation Improvement Program is not subject to the allocation formula and restrictions of G.S. 136-44.2, 136-44.2A, or 136-44.5."

Requested by: Senators Basnight, Plyler

—AIR CARGO AUTHORITY FUNDS

Sec. 210.2. Of the funds appropriated for the 1991-92 fiscal year in this Title from the Highway Fund to the reserve for Air Cargo Authority, \$400,000 shall be transferred to the Department of Economic and Community Development, for the 1991-92 fiscal year, to provide promotion and marketing of the Global Air Cargo Industrial Complex. Funds transferred pursuant to this section shall be used for advertising, travel, and related expenses.

PART 38.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Redwine, Anderson, Senators Marvin, Odom

—HIGHWAY PATROL SALARIES

Sec. 211. Notwithstanding G.S. 20-187.83, the salary increase provided by G.S. 20-187.23 is suspended for the 1991-92 fiscal year.

Requested by: Representatives Redwine, Anderson, Jeffus, Senators Marvin, Odom

—SUMMIT HOUSE

Sec. 211.1. Of the funds appropriated to the Department of Crime Control and Public Safety for the 1991-92 fiscal year, the sum of \$165,000 shall be used to support the program at Summit House, a community-based residential alternative to

incarceration for mothers and pregnant women convicted of nonviolent crimes. Summit House shall report quarterly to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have their probation revoked, and the number of clients who successfully complete the program while housed at Summit House.

PART 39.—JUDICIAL DEPARTMENT

Requested by: Representatives Redwine, Anderson, Senator Marvin

—SALARIES/ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT

Sec. 212. Notwithstanding the provisions of G.S.7A-102(c), assistant clerks and deputy clerks of superior court shall not receive any automatic increment during the 1991-92 fiscal year.

PART 40.—DEPARTMENT OF HUMAN RESOURCES

Requested by: Representatives Easterling, Nye, Senator Richardson

—MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FUNDS

Sec. 213. (a) Of the funds appropriated in this Title to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, \$6,000,000 for the 1991-92 fiscal year and \$6,000,000 for the 1992-93 fiscal year shall be expended in accordance with the Mental Health Study Commission Plans adopted by the General Assembly, in the following amounts:

- | | | |
|-----|--|--------------|
| (1) | Services for the mentally ill; | \$1,730,000 |
| (2) | Services for the developmentally disabled; | \$1,960,000 |
| (3) | Services for substance abusers. | \$2,310,000. |

(b) Of the funds allocated in subsection (a) of this section for Services for the developmentally disabled, \$230,000 shall be transferred in the 1991-92 fiscal year and \$230,000 in the 1992-93 fiscal year to the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, for the United Cerebral Palsy therapeutic preschools.

Requested by: Representatives Easterling, Nye, Diamont, Senator Richardson

—MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FUNDS/SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PREGNANT WOMEN

Sec. 214. (a) Effective January 1, 1992, of the funds appropriated in this Title to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, \$400,000 for the 1991-92 fiscal year and \$800,000 for the 1992-93 fiscal year shall be used to set up two regional residential and outpatient treatment programs for pregnant women who abuse drugs or alcohol. These programs shall be operated by public or private nonprofit agencies and shall include

case management services, transportation, day care, prevention, residential placement, outpatient services, and money for household start-up costs. Outpatient services shall be located in a public health department, community, migrant or rural health center, hospital, or other agency that provides prenatal care.

(b) Effective July 1, 1991, of the funds appropriated in this Title to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, \$220,000 for the 1991-92 fiscal year and \$220,000 for the 1992-93 fiscal year shall be used to continue support for the residential and outpatient treatment center located in Robeson County.

Requested by: Representatives Nye, Easterling, McLaughlin, Senator Richardson
—STATE SUBSIDY/COUNTY DETENTION HOME

Sec. 215. (a) G.S. 134A-38 reads as rewritten:

"§ 134A-38. State subsidy to county detention homes.

The Department shall develop a State subsidy program to pay a county detention home which provides ~~regional~~ juvenile detention services and meets State standards a certain ~~portion of its operating cost and its per capita daily cost~~ per diem per child for any child cared for ~~from another county~~ as recommended in said report. In general, this subsidy per diem should be fifty percent (50%) of the ~~operating costs of a county detention home and one hundred percent (100%) of the per capita daily cost~~ total cost of caring for a child from another county; any county placing a child in the county detention home of another county providing regional juvenile detention services or a regional detention home should pay fifty percent (50%) of the per capita daily cost of caring for the child to the Department. from within the county and 100 percent (100%) of the total cost of caring for a child from another county. Any county placing a child in a detention home in another county shall pay fifty percent (50%) of the total cost of caring for the child to the Department. The exact funding formulas may be varied by the Department to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care."

(b) Of the funds appropriated to the Department of Human Resources, Division of Youth Services in this Title, \$500,000 for the 1991-92 fiscal year and \$500,000 for the 1992-93 fiscal year shall be used to implement this section.

Requested by: Representatives Easterling, Nye, Diamont, Senator Richardson
—COUNTY PROTECTIVE SERVICES ALLOCATION

Sec. 216. Of the funds appropriated to the Department of Human Resources, Division of Social Services, in this Title, \$3,250,000 for the 1991-92 fiscal year and \$7,000,000 for the 1992-93 fiscal year shall be allocated to county departments of social services beginning January 1, 1992, according to the following formula:

- (1) All county departments shall receive a base allocation of \$10,000 for the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal year.
- (2) The balance of the funds each year of the fiscal biennium shall be allocated to each county department based upon the percentage of the number of child abuse and neglect reports in that county compared to

the total number of reports of child abuse and neglect statewide. These percentages shall be computed from the reports received by the Division of Social Services' Central Registry of Abuse and Neglect for the last two fiscal years.

Funds allocated to county departments of social services pursuant to this subsection shall be used to provide additional staff to carry out investigations of reports of child abuse or neglect or to provide protective or preventive services in cases in which the department confirms neglect, abuse, or dependency. However, if a county demonstrates to the Division of Social Services that it has adequate protective services staff, that county department may use these allocated funds to purchase or provide treatment or other support services to children and their families in confirmed cases of child abuse, neglect, or dependency. All expenditures made by any county department of social services from funds allocated pursuant to this subsection shall be in direct support of the department's program of protective services for children. These funds shall not be used to supplant any Social Services Block Grant funds or county appropriations budgeted for protective services for children.

The Department of Human Resources, Division of Social Services, shall establish guidelines and criteria to assure that the allocations to county departments of social services pursuant to this subsection are used in accordance with the intent and purpose of this subsection.

The Division of Social Services shall prepare a report on the progress achieved in improving child protective services throughout the State. The report shall include an analysis of county staffing patterns, future county staffing and funding requirements needed to meet the Division's recommended guidelines, and analysis of the barriers to recruitment and retention of county child protective services staff, and a summary of the Division's progress in implementing improvements to the State's training and oversight responsibilities. The Division shall present this report to the 1991 General Assembly, to the Fiscal Research Division, and to the North Carolina Child Fatality Task Force established pursuant to Article 62 of Chapter 143 of the General Statutes by March 15, 1992.

Requested by: Representatives Nye, Easterling, Senator Richardson
—DEPARTMENT OF HUMAN RESOURCES PHARMACY STUDY

Sec. 218. The Department of Human Resources shall contract for a survey study to determine the cost of filling a prescription in North Carolina. The Department shall consider the impact of refills on the dispensing fee and any other issues it considers necessary and shall implement appropriate adjustments to the pharmacy dispensing fee in the State Medicaid Plan based on the outcome of the study if the Department identifies funds available to it sufficient for the implementation. The Department shall include in its adjustments the adjustment of the fee annually to reflect appropriate inflationary increases as established in nationally recognized pricing indexes.

Requested by: Representatives Nye, Easterling, Senator Richardson

—PHARMACY DISPENSING FEE INCREASE

Sec. 219. Effective January 1, 1992, the professional limits fee for dispensing drugs shall be \$5.60 per prescription, adjusted in accordance with subdivision (5) of Section 93, Title 1, of this act.

Requested by: Representatives Diamont, Nye, Easterling, Senator Richardson

—PURCHASE TRANSPORTATION SERVICES FOR PREGNANT WOMEN AND CHILDREN ON MEDICAID

Sec. 220. (a) Of the funds appropriated from the General Fund to the Department of Human Resources, in this Title, \$300,000 for the 1991-92 fiscal year and \$300,000 for the 1992-93 fiscal year shall be transferred to the Department of Transportation, Public Transportation Division, to purchase transportation services for pregnant women and children on Medicaid. All funds distributed by the Department, under this section, to counties are intended to purchase additional transportation services and not to supplant funds now being used by local governments for that purpose. These funds are not to be used towards the purchase of transportation vehicles or equipment, and may not be used to cover State administrative costs. Only those counties maintaining Medicaid transportation services to pregnant women and children at a level that is not reduced from the level of services in place during the 1989-90 fiscal year shall be eligible for additional transportation assistance funds.

(b) The Public Transportation Division of the Department of Transportation shall distribute these funds to the counties according to the following formula:

- (1) Fifty percent (50%) divided equally among all eligible counties;
- (2) Forty-five percent (45%) on the basis of the number of pregnant women and children receiving Medicaid in the county as a percentage of the total number of pregnant women and children receiving Medicaid statewide; and
- (3) Five percent (5%) based upon a population density factor that recognizes the higher transportation costs in sparsely populated counties.

The Department of Transportation shall develop appropriate procedures for the distribution and use of these funds and shall adopt rules to implement these procedures.

(c) Funds distributed by the Department of Transportation under this section shall be used by counties in a manner consistent with implemented transportation development plans which have been approved by the Department of Transportation and the board of county commissioners. To receive funds apportioned for a given fiscal year, a county shall have an approved transportation plan. Funds that are not obligated in a given fiscal year due to the lack of an approved transportation plan shall be distributed to the eligible counties based on the distribution formula in subsection (b) of this section.

(d) The Department of Transportation shall report to the Joint Legislative Commission on Governmental Operations by March 15, 1992, on the amount of money that has been received and spent by each county pursuant to this section and the new

transportation services provided in each county to pregnant women and children receiving Medicaid pursuant to this section.

Requested by: Representatives Nye, Easterling, Senator Richardson

—DOMICILIARY RATE INCREASE/EXPANSION

Sec. 221. Section 127 of Title 1 of this act reads as rewritten:

"—DOMICILIARY RATE INCREASE

Sec. 127. Effective July 1, 1991, the maximum monthly rate for ambulatory residents in domiciliary care facilities shall be ~~\$766.00~~ \$832.00 and the maximum monthly rate for semiambulatory residents shall be ~~\$803.00~~ \$871.00. Effective July 1, 1992, the maximum monthly rates for ambulatory residents shall be increased to ~~\$777.00~~ \$843.00 and for semiambulatory residents to ~~\$814.00~~ \$882.00."

Requested by: Representatives Nesbitt, Diamont, Nye, Easterling, Senators Basnight, Plyler, Richardson

—WAKE COUNTY DETENTION FACILITY ALLOCATION

Sec. 221.1. Of the funds appropriated from the General Fund to the Department of Human Resources, Division of Youth Services, the sum of \$400,000 for the 1991-92 fiscal year and the sum of \$400,000 for the 1992-93 fiscal year shall be used for the operation of the Wake County Detention facility as a regional detention facility.

Requested by: Representatives Easterling, Nye, Diamont, Senators Richardson, Basnight, Plyler

—REDUCE INFANT MORTALITY

Sec. 221.2. (a) Effective October 1, 1991, the Department of Human Resources, Division of Medical Assistance, shall provide medical coverage for nutritional counselling, psycho-social counselling, and predelivery and post partum home visits by maternity care coordinators and public health nurses, for Medicaid-eligible pregnant women.

(b) Of the funds appropriated in this Title to the Department of Human Resources, Division of Medical Assistance, the sum of \$356,648 for the 1991-92 fiscal year and the sum of \$499,310 for the 1992-93 fiscal year shall be used to provide the State share of the increased coverage for services mandated by this section.

Requested by: Representatives Nye, Easterling, Senators Richardson, Basnight, Plyler

—CHILD SUPPORT FUNDS

Sec. 221.3. (a) Notwithstanding G.S. 114-2.1, the State may enter into a consent judgment in the case of Cassell, et al. v. Flaherty, et al., C-C-90-0010-M, United States District Court for the Western District of North Carolina, Charlotte Division.

(b) The consent judgment authorized under subsection (a) of this section is subject to G.S. 114-2.2.

(c) In the event a consent agreement is reached, funds appropriated to enable the Child Support Enforcement Section, Division of Social Services, Department of Human Resources to distribute child support collections based upon the date the payment is withheld from an obligor's disposable income may be used to implement that consent judgment. Implementation costs may include:

- (1) Quarterly notices to clients;
- (2) Toll-free telephone number;
- (3) Four Account Technician II positions;
- (4) System enhancements; and
- (5) Court-ordered costs.

(d) The Office of State Budget and Management and the Department of Human Resources shall provide quarterly reports on expenditures authorized under this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

(e) The Office of State Budget and Management and the Department of Human Resources shall report annually on expenditures and progress in achieving necessary improvements in the distribution of child support collection. Reports shall be submitted to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division not later than May 1, 1992, and annually thereafter.

(f) Funds appropriated to the Department of Human Resources in this Title for covering expenses incurred as a result of the Cassell, et al. v. Flaherty, et al. lawsuit shall be deposited in a nonreverting fund account in the Department of Human Resources, Division of Social Services, that the Department shall establish for this purpose. Any unexpended and unencumbered funds remaining in the nonreverting account on July 1, 1995, shall revert to the General Fund on that date. If the State has not entered into a consent judgment as authorized under this section by September 1, 1991, then this section shall expire on September 1, 1991, and all funds appropriated in this act for this purpose shall revert to the General Fund.

Requested by: Senators Plyler, Walker

—HIGHWAY VENDING PROFITS/MEDICAL EYE CARE

Sec. 221.4. (a) G.S. 111-43 reads as rewritten:

"§ 111-43. Installation of coin-operated vending machines.

In locations where the Department determines that a vending facility may not be operated or should not continue to operate due to insufficient revenues, the Department shall have the first opportunity to secure, by negotiation of a contract with one or more licensed commercial vendors, coin-operated vending machines for the location. Profits from coin-operated vending machines secured by the Department shall be used by the Department for the support of vending facilities operated by the visually ~~handicapped~~. handicapped, except for up to \$300,000 of the highway vending profits each fiscal year that may be used to support the Medical Eye Care Program and to provide needed technological equipment and related activities within the Division."

(b) This section expires June 30, 1992.

PART 41.—DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Requested by: Representatives Nesbitt, Diamont, Senator Basnight
—VISITOR AND WELCOME CENTER FUNDS

Sec. 222. (a) Before any other transfers are made pursuant to G.S. 20-81.3(c) or 20-81.3(g), the Secretary of Transportation shall allocate from the "Personalized Registration Plate Fund" \$150,000 for the 1991-92 fiscal year and \$150,000 for the 1992-93 fiscal year for personnel to staff Visitor and Welcome Centers as follows:

- (1) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal year to the Albemarle Regional Planning and Development Office in the Town of Hertford for the Visitor and Welcome Center on U.S. Highway 17 in Camden County;
- (2) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal year to the Southeastern Welcome Center, Inc., for the Visitor and Welcome Center on U.S. Highway 17 South in Brunswick County;
- (3) \$25,000 for the 1991-92 fiscal year and \$25,000 for the 1992-93 fiscal year to Smoky Mountain Hosts of North Carolina, Inc., for the Visitor and Welcome Center on U.S. Highway 441 in Macon County; and
- (4) \$25,000 for the 1991-92 fiscal year and \$25,000 for the 1992-93 fiscal year to the North Carolina High Country Host, Inc., for personnel to staff the Visitor and Welcome Center in the Town of Boone, Watauga County.

(b) If the Visitor and Welcome Center in Brunswick County is under construction as of the effective date of this act, the Board of Transportation shall ensure that construction of the Center is completed by September 1, 1991. The Secretary of Transportation shall implement the allocations required under this section as expeditiously as possible, and shall take no adverse action against any of the above named centers for having received State funds pursuant to an act of the General Assembly.

- (c) This section expires June 30, 1993.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—PETROLEUM OVERCHARGE FUNDS ALLOCATION

Sec. 223. (a) The funds and interest thereon received from the case of United States v. Exxon are deposited in the Special Reserve for Oil Overcharge Funds. There is appropriated from the Special Reserve to the Department of Economic and Community Development the sum of \$10,900,000 for the 1991-92 fiscal year and the sum of \$6,001,511 for the 1992-93 fiscal year to be allocated as follows:

- (1) \$2,200,000 for the 1991-92 fiscal year and \$1,200,302 for the 1992-93 fiscal year shall be used for projects under the State Energy Conservation Plan and Energy Extension Service Program:

- (2) \$2,500,000 for the 1991-92 fiscal year and \$1,380,348 for the 1992-93 fiscal year shall be used for energy conservation programs for hospitals and schools;
- (3) \$3,200,000 for the 1991-92 fiscal year and \$1,740,438 for the 1992-93 fiscal year shall be used for the Low Income Weatherization Program;
- (4) \$3,000,000 for the 1991-92 fiscal year and \$1,680,423 for the 1992-93 fiscal year shall be used for the Low Income Home Energy Assistance Program (LIHEAP).

(b) There is appropriated from the funds and interest thereon received from the United States Department of Energy's Stripper Well Litigation (MDL378) which remain in the Special Reserve for Oil Overcharge Funds to the Department of Economic and Community Development the sum of \$4,898,489 for the 1992-93 fiscal year to be allocated as follows:

- (1) \$999,698 shall be used for projects under the State Energy Conservation Plan and Energy Extension Service Program;
- (2) \$1,119,652 shall be used for energy conservation programs for hospitals and schools;
- (3) \$1,459,562 shall be used for the Low Income Weatherization Program; and
- (4) \$1,319,577 shall be used for the Low Income Home Energy Assistance Program (LIHEAP).

(c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocations made pursuant to subsections (a) and (b) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

(d) The funds and interest thereon received from the Diamond Shamrock Settlement which remain in a reserve in the Office of State Budget and Management for the Division of Energy to administer the petroleum overcharge funds pursuant to Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to the Division of Energy in the Department of Economic and Community Development on an as-needed basis.

(e) The Department of Economic and Community Development shall submit comprehensive annual reports to the General Assembly by May 15, 1992, and January 31, 1993, which detail the use of all petroleum overcharge funds. Any State department or agency that has received petroleum overcharge funds shall provide all information requested by the Department of Economic and Community Development for the purpose of preparing these reports.

Requested by: Representatives Ethridge, H. Hunter
 —ECONOMIC DEVELOPMENT FUNDS

Sec. 224. (a) Of the funds appropriated in this Title to the North Carolina Rural Economic Development Center, Inc., \$1,400,000 for the 1991-92 fiscal year, shall be allocated to local community development corporations. These funds shall be used

to support community economic development projects and activities within the State's minority community.

Of these funds, \$1,050,000 shall be used for direct grants to the 17 local community development corporations that have previously received State funds for this purpose to support operations and project activities, \$150,000 shall be used for direct grants to community development corporations that have not previously received State funds for this purpose, \$50,000 shall be used for the Community Development Housing Counselling Demonstration Project, and \$150,000 shall be used for the North Carolina Association of Community Development Corporations and shall be matched on the basis of one dollar of non-State funds for every one dollar of State funds. The Association shall not use these funds for administrative expenses, including salaries. If these matching funds are not matched before the end of the 1991-92 fiscal year, they shall be used during the 1992-93 fiscal year for direct grants to local community development corporations. If funds allocated under this paragraph for direct grants to Community Development Corporations that have not previously received State funds have not been committed for direct grants by the Rural Economic Development Center by March 31, 1992, then such uncommitted funds shall be used for direct grants to Community Development Corporations that have previously received State funds.

The North Carolina Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds allocated in this subsection.

For purposes of this subsection, the term "community development corporation" means a nonprofit corporation, chartered pursuant to Chapter 55A of the General Statutes and tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code, whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development, whose activities and decisions are initiated, managed, and controlled by their constituencies, and whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers.

(b) Of the funds appropriated in this Title to the Office of State Budget and Management, \$300,000 for the 1991-92 fiscal year shall be allocated for Land Loss Prevention Project, Inc., to provide free legal representation to low-income financially distressed small farmers. The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers who have income and assets that would make them financially ineligible for legal services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The Land Loss Prevention Project, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(c) Of the funds appropriated in this Title to the Office of State Budget and Management, \$250,000 for the 1991-92 fiscal year shall be allocated for the North Carolina Coalition of Farm and Rural Families, Inc., for its Small Farm Economic Development Project. These funds shall be used to foster economic development within the State's rural farm communities by offering financial, marketing, and technical assistance to small and limited resource farmers. The North Carolina Coalition of Farm

and Rural Families, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(d) Of the funds appropriated in this Title to the Office of State Budget and Management, \$200,000 for the 1991-92 fiscal year shall be allocated to the North Carolina Institute for Minority Economic Development, Inc., to foster minority economic development within the State through policy analysis, information and technical assistance, and resource expansion. The North Carolina Institute for Minority Economic Development, Inc., shall research and identify key issues affecting the economic well-being of the State's ethnic minority community and issue annual reports with appropriate recommendations; provide information and technical assistance to organizations with minority economic development-based projects in common areas of need and interests; develop a resource bank of data and information to strengthen minority economic development initiatives; and facilitate training in appropriate areas of need. The North Carolina Institute for Minority Economic Development, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(e) Of the funds appropriated in this Title to the North Carolina Rural Economic Development Center, Inc., \$1,000,000 for the 1991-92 fiscal year shall be allocated to local minority-owned and operated credit unions and to the North Carolina Minority Credit Union Support Center, Inc. These funds shall be used to foster minority economic development within the State by increasing the lending capacity of minority-owned and operated credit unions. Ninety percent (90%) of these funds shall be allocated to local minority-owned and operated credit unions for capitalization of economic development and housing loans, and ten percent (10%) of these funds shall be allocated to the North Carolina Minority Credit Union Support Center, Inc., for operational and administrative support. The North Carolina Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(f) Of the funds appropriated in this Title to the North Carolina Rural Economic Development Center, Inc., \$650,000 for the 1991-92 fiscal year shall be used to expand the Microenterprise Loan Program. Of these funds, no less than \$400,000 shall be used as loan loss reserves and no more than \$250,000 shall be used to cover operational costs. These funds are to be matched on the basis of two dollars of non-State funds for every one dollar of State funds. The North Carolina Rural Economic Development Center, Inc., shall report quarterly to the Joint Legislative Commission on Governmental Operations on the use of these funds.

(g) Of the funds appropriated in this Title to the North Carolina Rural Economic Development Center, Inc., \$50,000 for the 1991-92 fiscal year shall be used for its expenses in administering this section. The Office of State Budget and Management shall allot the funds pursuant to subsections (e) and (f) of this section in increments of not less than \$200,000 and not more than \$325,000 within 30 working days of the receipt of the Center's request for the funds. Requests shall include a commitment of any required matching funds from non-State funds. The North Carolina Rural Economic Development Center, Inc., shall distribute the funds pursuant to

subsections (e) and (f) of this section immediately upon allotment by the Office of State Budget and Management.

(h) The Rural Economic Development Center, Inc., shall not distribute funds under subsections (a), (e), and (f) of this section unless and until the entities eligible for funds under those subsections have met the requirements of G.S. 143-6.1.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Senator Martin of Pitt
—HOME PROGRAM FUNDING LIMIT

Sec. 225. The Department of Economic and Community Development shall not spend any funds appropriated in this Title for the State administration of the federal HOME Program until Congress appropriates federal funds for the Program.

PART 42.—DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—EHNHR USE OF FEES

Sec. 226. (a) If the revenues received pursuant to G.S. 113A-119.1 exceed the amount in anticipated revenues from this source for the 1991-92 fiscal year or for the 1992-93 fiscal year, then the Department of Environment, Health, and Natural Resources may use up to \$30,000 of this revenue for the 1991-92 fiscal year and up to \$50,000 of this revenue for the 1992-93 fiscal year for permitting, education, and compliance activities, including salaries and necessary support, in the Division of Coastal Management. These funds are in addition to any other funds appropriated for this purpose.

(b) If the revenues received pursuant to G.S. 113A-54.2 exceed the amount in anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal year, then the Department of Environment, Health, and Natural Resources may use up to \$140,000 of this revenue for the 1991-92 fiscal year and up to \$160,000 of this revenue for the 1992-93 fiscal year for education, erosion control plan approval, and compliance activities in the Sedimentation Control Program, including salaries and necessary support, in the Division of Land Resources. These funds are in addition to any other funds appropriated for this purpose.

(c) If the revenues received pursuant to G.S. 143-215.28A exceed the amount in anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal year, then the Department of Environment, Health, and Natural Resources may use up to \$20,000 of this revenue for the 1991-92 fiscal year and up to \$20,000 of this revenue for the 1992-93 fiscal year for permitting, education, and compliance activities in the Dam Safety Program, including salaries and necessary support, in the Division of Land Resources. These funds are in addition to any other funds appropriated for this purpose.

(d) If the revenues received pursuant to G.S. 143B-290 exceed the amount in anticipated revenues from this source for the 1991-92 fiscal year or for the 1992-93 fiscal year, then the Department of Environment, Health, and Natural Resources may

use up to \$40,000 of this revenue for the 1991-92 fiscal year and up to \$70,000 of this revenue for the 1992-93 fiscal year for permitting, education, and compliance activities in the Mining Program, including salaries and necessary support, in the Division of Land Resources. These funds are in addition to any other funds appropriated for this purpose.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—COMMUNITY WATER SYSTEMS PERMITS FEES

Sec. 227. There is appropriated from the General Fund to the Department of Environment, Health, and Natural Resources the sum of \$258,938 for the 1991-92 fiscal year and the sum of \$621,450 for the 1992-93 fiscal year to support the public water systems program; provided, however, if the revenues raised from Chapter 576 of the 1991 Session Laws are less than \$258,938 for the 1991-92 fiscal year or are less than \$621,450 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—CLEAN AIR ACT PERMIT FEES

Sec. 228. There is appropriated from the Title V nonreverting account established in G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources the sum of \$999,855 for the 1991-92 fiscal year and the sum of \$3,992,390 for the 1992-93 fiscal year to be used for the development and implementation of the Title V program in accordance with G.S. 143-215.3A; provided, however, if the revenues raised from Chapter 552 of the 1991 Session Laws are less than \$999,855 for the 1991-92 fiscal year or are less than \$3,992,390 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—HAZARDOUS WASTE INSPECTORS

Sec. 229. As industry is permitted that is subject to G.S. 130A-295.02 requiring the establishment of resident inspectors, the Department of Environment, Health, and Natural Resources may request through the Office of State Budget and Management the authorization to establish new positions and support costs necessary to comply with G.S. 130A-295.02. The Department shall report these positions as a continuation item in its next biennial budget request.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt

—VITAL RECORDS FEES

Sec. 230. There is appropriated from the Vital Records Automation Fund established under G.S. 130A-93.1 to the Department of Environment, Health, and Natural Resources the sum of \$800,000 for the 1991-92 fiscal year and the sum of \$800,000 for the 1992-93 fiscal year, for defraying the cost of automating the vital records system; provided, however, if the revenues raised from Chapter 343 of the 1991 Session Laws are less than \$800,000 for the 1991-92 fiscal year or are less than \$800,000 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

Requested by: Representatives Ethridge, H. Hunter, Senator Martin of Pitt
—ASBESTOSIS/SILICOSIS EXAMS FEES

Sec. 231. There is appropriated from the General Fund to the Department of Environment, Health, and Natural Resources the sum of \$112,124 for the 1991-92 fiscal year and the sum of \$119,479 for the 1992-93 fiscal year for defraying the cost of examinations for screening for asbestosis or silicosis conducted by the Department; provided, however, if the revenues raised from Chapter 481 of the 1991 Session Laws are less than \$112,124 for the 1991-92 fiscal year or are less than \$119,479 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Diamont, Senator Martin of Pitt

—RURAL OBSTETRICAL CARE INCENTIVE PROGRAM

Sec. 232. Of the funds appropriated in this Title from the General Fund to the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, the sum of \$300,000 for the 1991-92 fiscal year and the sum of \$300,000 for the 1992-93 fiscal year shall be used to expand the Rural Obstetrical Care Incentive Program established under Section 39.3 of Chapter 1100, 1987 Session Laws, Regular Session 1988. The Rural Obstetrical Care Incentive Program will be used to assist with the cost of malpractice insurance for family physicians, obstetricians, and certified nurse midwives who agree to provide prenatal and obstetrical services in medically underserved areas of the State. General surgeons who provide cesarean section backup to family physicians in counties where there are no obstetricians or where there are no obstetricians willing or able to provide such backup are also eligible for the program. Physicians and certified nurse midwives covered under the Rural Obstetrical Care Incentive Program are required to participate in an obstetrical care coverage plan developed by their local health department or community, migrant, or rural health center, and must agree to provide services to pregnant women regardless of their ability to pay for the services.

Requested by: Representatives Ethridge, H. Hunter, DeVane, Diamont, Senator Martin of Pitt

—NORTH CAROLINA CHILD FATALITY PREVENTION

Sec. 233. (a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 62.

"North Carolina Child Fatality Review Team; North Carolina
Child Fatality Task Force and Study.

"§ 143-571. Declaration of public policy.

The General Assembly finds that it is the public policy of this State to prevent child deaths. The General Assembly further finds that the prevention of child deaths is a community responsibility; that professionals from disparate disciplines have responsibilities for children and have expertise that can promote child safety and well-

being; and that multidisciplinary reviews of child deaths can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a multidisciplinary task force to study the incidence and causes of child deaths and to develop a mechanism for multidisciplinary child death reviews. It is further the intent of the General Assembly that the task force, based upon its study and its expertise, make recommendations to the General Assembly and the Governor for changes to law, rule, and policy that will support the safe and healthy development of our children. It is also the intent of the General Assembly to establish a State Child Fatality Review Team to review certain child deaths.

"§ 143-572. Definitions.

The following definitions apply in this Article:

- (1) Local team. A local multidisciplinary child abuse and neglect review team established for a county.
- (2) State Team. The North Carolina Child Fatality Review Team.
- (3) Task Force. The North Carolina Child Fatality Task Force.

"§ 143-573. Task Force - creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Environment, Health, and Natural Resources for budgetary purposes only.

(b) The Task Force shall be composed of 25 members, 12 of whom shall be ex officio members, three of whom shall be appointed by the Governor, and eight of whom shall be appointed by the General Assembly, four upon recommendation of the Speaker of the House of Representatives and four upon recommendation of the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Environment, Health, and Natural Resources;
- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The President of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Human Resources;
- (11) The Secretary of the Department of Environment, Health, and Natural Resources;
- (11.1) The Director of the Administrative Office of the Courts;

- (12) A director of a county department of social services appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Environment, Health, and Natural Resources;
- (14) A representative from the North Carolina Child Advocacy Institute appointed by the Governor upon recommendation of the President of the Institute;
- (15) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (16) A pediatrician, licensed to practice medicine in North Carolina, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (17) A representative from the North Carolina League of Municipalities appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives upon recommendation of the League;
- (18) Two public members appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;
- (19) A county or municipal law enforcement officer appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (20) A district attorney appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
- (21) A representative from the North Carolina Association of County Commissioners appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon recommendation of the Association; and
- (22) Two public members appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. The Speaker of the House of Representatives shall call the first meeting

no later than October 1, 1991. At the first meeting the members shall elect a chair who shall preside for the duration of the Task Force.

"§ 143-574. Task Force - duties.

The Task Force shall:

- (1) Undertake a statistical study of the incidence and causes of child deaths in this State during 1988 and 1989, and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;
- (2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing local teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;
- (3) Receive and consider reports from the State Team; and
- (4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate.

"§ 143-575. State Team - creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Review Team within the Department of Environment, Health, and Natural Resources for budgetary purposes only.

(b) The State Team shall be composed of nine members of whom eight members are ex officio and one is appointed. The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team.

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Maternal and Child Health Division of the Department of Environment, Health, and Natural Resources;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services; and
- (7.1) The Director of the Administrative Office of the Courts;

(8) The pediatrician appointed pursuant to G.S. 143-573(b)(16) to the Task Force.

(c) All members of the State Team are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment.

"§ 143-576. State Team - duties.

The State Team shall:

(1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile pursuant to G.S. 7A-543 at any time before death; and

(2) Report to the Task Force during the existence of the Task Force, in the format and at the time required by the Task Force, on the State Team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children; and

(3) Upon request of a local team, provide technical assistance to the team.

"§ 143-577. Task Force - reports.

(a) The Task Force shall provide a preliminary report to the Governor and General Assembly, within the first week of the convening of the 1992 Session of the 1991 General Assembly. This preliminary report shall contain at least a summary of preliminary conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

(b) The Task Force shall provide a final report to the Governor and General Assembly within the first week of the convening of the 1993 General Assembly. The final report shall include final conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

(c) After the Task Force provides its final report to the Governor and General Assembly, the Task Force shall cease to be in existence.

"§ 143-578. Access to records.

The Task Force and State Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this Article, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. Task Force and State Team meetings are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. All otherwise confidential information and records acquired by the Task Force or State Team in the exercise of their duties are confidential; are not subject to discovery or introduction into evidence in

any proceedings; and may only be disclosed as necessary to carry out the purposes of the Task Force. No member of the Task Force, State Team, or person who attends such a meeting may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This section does not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

"§ 143-579. Administration; funding.

(a) To the extent of funds available, the Chairs of the Task Force and State Team may hire staff or consultants to assist the Task Force and the State Team in completing their duties.

(b) Members, staff, and consultants of the Task Force or State Team shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as the case may be, paid from funds appropriated to implement this Article and within the limits of those funds.

(c) With the approval of the Legislative Services Commission, legislative staff and space in the Legislative Building and the Legislative Office Building may be made available to the Task Force."

(b) The Department of Environment, Health, and Natural Resources, the Department of Human Resources, the Department of Justice, and the State Board of Education shall adopt joint rules to ensure full cooperation of these departments and related local agencies with the work of the North Carolina Child Fatality Task Force and the North Carolina Child Fatality Review Team.

(c) Of the funds appropriated in this Title to the Department of Environment, Health, and Natural Resources, \$158,000 for the 1991-92 fiscal year and \$165,000 for the 1992-93 fiscal year shall be used to implement this section. Of these funds, \$83,200 for the 1991-92 fiscal year and \$75,000 for the 1992-93 fiscal year shall be allocated to the North Carolina Child Fatality Task Force and \$74,800 for the 1991-92 fiscal year and \$90,000 for the 1992-93 fiscal year shall be allocated to the North Carolina Child Fatality Review Team.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Redwine, Senator Martin of Pitt

—DWI TEST CHANGES

Sec. 233.1. (a) G.S. 20-16.5(j) reads as rewritten:

"(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00) as costs for the action before ~~his~~ the person's license may be returned under subsection (h). The costs collected under this section go to the State. shall be credited to the General Fund. Fifty percent (50%) of the costs collected shall be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of Environment, Health, and Natural Resources."

(b) G.S. 20-139.1(b1) reads as rewritten:

"(b1) ~~When Arresting or Charging Officer May Not Perform Chemical Analysis. – A~~ Except as provided in this subsection, a chemical analysis is not valid in any case in

which it is performed by an arresting officer or by a charging officer under the terms of G.S. 20-16.2. A chemical analysis of the breath may be performed by an arresting officer or by a charging officer when both of the following apply:

- (1) The officer possesses a current permit issued by the Department of Environment, Health, and Natural Resources for the type of chemical analysis.
- (2) The officer performs the chemical analysis by using an automated instrument that prints the results of the analysis."
- (c) G.S. 20-16.2(a) reads as rewritten:

"(a) Basis for Charging Officer to Require Chemical Analysis; Notification of Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if ~~he is~~ charged with an implied-consent offense. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when ~~he~~ the officer has reasonable grounds to believe that the person charged has committed the implied-consent offense.

Except as provided in this subsection or subsection (b), before any type of chemical analysis is administered the person charged must be taken before a chemical analyst authorized to administer a test of a person's breath, who must inform the person orally and also give ~~him~~ the person a notice in writing that:

- (1) He has a right to refuse to be tested.
- (2) Refusal to take any required test or tests will result in an immediate revocation of his driving privilege for at least 10 days and an additional 12-month revocation by the Division of Motor Vehicles.
- (3) The test results, or the fact of his refusal, will be admissible in evidence at trial on the offense charged.
- (4) His driving privilege will be revoked immediately for at least 10 days if:
 - a. The test reveals an alcohol concentration of 0.10 or more; or
 - b. He was driving a commercial motor vehicle and the test reveals an alcohol concentration of 0.04 or more.
- (5) He may have a qualified person of his own choosing administer a chemical test or tests in addition to any test administered at the direction of the charging officer.
- (6) He has the right to call an attorney and select a witness to view for him the testing procedures, but the testing may not be delayed for these purposes longer than 30 minutes from the time he is notified of his rights.

If the charging officer or an arresting officer is authorized to administer a chemical analysis of a person's breath and the charging officer designates a chemical analysis of the blood of the person charged, the charging officer or the arresting officer may give the person charged the oral and written notice of rights required by this subsection."

(d) Amounts collected under G.S. 20-16.5(j) for fiscal years 1991-92 and 1992-93 and designated for the alcohol testing program of the Injury Control Section of the Department of Environment, Health, and Natural Resources shall not revert to the

General Fund. The amount of funds collected under G.S. 20-16.5(j) that are designated for this alcohol testing program and have not been spent or obligated as of June 30, 1994, shall revert to the Highway Fund.

Beginning with the 1994-95 fiscal year, any funds collected under G.S. 20-16.5(j) that are designated for the alcohol testing program of the Injury Control Section of the Department of Environment, Health, and Natural Resources and are not needed for that program shall be transferred quarterly to the Governor's Highway Safety Program for grants to local law enforcement agencies for training concerning enforcement of the laws on driving while impaired. Except for amounts transferred during the fourth quarter of a fiscal year, the Governor's Highway Safety Program shall expend funds transferred to it under this section in the fiscal year in which they are received. Amounts received by the Governor's Highway Safety Program during the fourth quarter of a fiscal year shall not revert and shall be expended by the following September 30.

(e) There is appropriated from the General Fund to the Department of Environment, Health, and Natural Resources the sum of \$1,433,822 for the 1991-92 fiscal year and the sum of \$1,433,264 for the 1992-93 fiscal year to fund the statewide chemical alcohol testing program administered by the Injury Control Section of the Department; provided, however, if the revenues raised under this section are less than \$1,433,822 for the 1991-92 fiscal year and \$1,433,264 for the 1992-93 fiscal year, the appropriation is reduced accordingly.

(f) Subsection (a) of this section becomes effective August 1, 1991, and applies to revocation orders issued under G.S. 20-16.5 on or after that date. Subsection (b) of this section becomes effective January 1, 1993, and applies to chemical analyses performed on or after that date.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senators Martin of Pitt, Tally

—LAKE RIM FISH HATCHERY REPAIRS

Sec. 233.2. The Wildlife Resources Commission may use no more than \$390,297 for the 1991-92 fiscal year to repair the dam at the Lake Rim Fish Hatchery in Cumberland County.

Requested by: Representatives H. Hunter, Ethridge, DeVane, Senators Martin of Pitt, Basnight

—COASTAL BOATING GUIDE

Sec. 233.3. The Wildlife Resources Commission shall use funds available to it for the 1991-92 fiscal year to publish and distribute the North Carolina Coastal Boating Guide.

TITLE III. - CAPITAL IMPROVEMENTS

Sec. 234. The appropriations made by the 1991 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and

other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

PART 43.—PROCEDURES FOR DISBURSEMENTS

Sec. 235. The appropriations made by the 1991 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, he shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 1991 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act.

PART 44.—CAPITAL IMPROVEMENTS/GENERAL FUND

Sec. 236. (a) Allocations are made from The State Capital Facilities Legislative Bond Fund of 1991 for the 1991-92 fiscal year to provide for capital improvement projects according to the following schedule:

State Capital Facilities Legislative
Bond Fund of 1991
1991-92

Department of Administration

- | | | |
|----|--|--------------|
| 1. | New Central Heat Plant (restores 1990-91 funds) | \$ 6,594,500 |
| 2. | Mall Improvements - Sidewalk
Completion and Landscaping | 675,000 |

Department of Human Resources

- | | | |
|----|---|-----------|
| 1. | Murdoch Center-Parkview Cottage
Renovation (restores 1990-91 funds) | 1,400,000 |
| 2. | John Umstead - Alum Sludge Treatment Facility | 1,100,000 |
| 3. | Black Mountain Center - Renovations
(restores previously appropriated funds) | 1,300,000 |
| 4. | Secretary's Office – Headstart Bonds Account
(Grant equivalent to one modular classroom or
renovations to existing facilities.) | 1,600,000 |

Department of Crime Control and Public Safety

- | | | |
|----|---|-----------|
| 1. | Replace Underground Storage Tanks to comply
with EPA requirements (National Guard) | 92,000 |
| 2. | Goldsboro Armory - Total Requirements | 2,800,800 |
| | Federal Funds | 2,057,300 |
| | Local Funds | 371,750 |
| | State Appropriation | 371,750 |
| 3. | Clinton Armory - Total Requirements | 2,608,500 |
| | Federal Funds | 1,884,200 |
| | Local Funds | 362,150 |
| | State Appropriation | 362,150 |

Department of Environment, Health, and Natural Resources

- | | | |
|----|--------------------------------------|-----------|
| 1. | Water Resources Development Projects | 2,055,000 |
| 2. | Park Repair and Maintenance Projects | 2,000,000 |

Office of State Budget

- | | | |
|----|-------------------------------------|-----------|
| 1. | Reserve for Repairs and Renovations | 8,299,600 |
|----|-------------------------------------|-----------|

University of North Carolina Board of Governors

- | | | |
|----|---------------------------------|------------|
| 1. | Reserve for Repairs/Renovations | 14,300,000 |
|----|---------------------------------|------------|

General Assembly

- | | | |
|----|--|-----------|
| 1. | Buildings/Office Repairs and Renovations | 4,600,000 |
|----|--|-----------|

Department of Cultural Resources

- | | | |
|----|-------------------------|--|
| 1. | Fort Fisher/Highway 421 | |
|----|-------------------------|--|

Erosion Control Matching Funds

250,000

GRAND TOTAL

\$ 45,000,000.

(b) This section is effective only if Senate Bill 930, 1991 Session, is ratified.

(c) Allocations made in Section 221 of this Title to the Department of Crime Control and Public Safety for the Armory at Goldsboro and the Armory at Clinton are contingent upon federal matching funds being available. If federal matching funds do not become available by July 1, 1992, these allocations shall be transferred to the Office of State Budget and placed in the Reserve for Repairs and Renovations.

PART 44A.—CAPITAL IMPROVEMENTS/HIGHWAY FUND

Sec. 236.1. Appropriations are made from the Highway Fund for the 1991-92 fiscal year and the 1992-93 fiscal year for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

DIVISION OF HIGHWAYS

1991-92 1992-93

01.	Bridge Maintenance Office Complex Supplemental - Town of Brunswick	\$224,000	\$ -
02.	Equipment Shop - Carthage	-	2,247,000
03.	Bridge Maintenance Complex - Wadesboro	26,000	439,000
04.	Gas Pump Canopies - Statewide	398,000	311,000
05.	Fencing - Statewide	171,000	-
06.	Land Acquisition - Siler City	54,000	-
07.	Land Acquisition/Maintenance Yard - Halifax	13,000	-
08.	Land Acquisition/Maintenance Yard - Trenton	27,000	-
09.	Water and Sewer Connections		
	- Statewide	308,000	-
	-Greene County Facility	400,000	-

10.	Division Office Complex Phase II - Fayetteville	-	1,688,000
11.	Division Office Addition - Greensboro Requirements		589,000
	Less Receipts (Sale of Land)		<u>-589,000</u>
	Appropriation		--
12.	Landscape Office, Warehouse and Truck Shed – Asheville Requirements		472,000
	Less Receipts (Sale of Land)		<u>-472,000</u>
	Appropriation		--
13.	Salt Storage Buildings - Statewide	405,000	67,000
14.	Equipment Shop - Mocksville	511,000	-
15.	District Office Building - Albemarle	49,000	247,000
16.	Division of Highways/Division of Motor Vehicles Office Complex - Graham	67,000	-
17.	Sign Shop - Town of Union	-	725,000
18.	Design Equipment Shop - Meadows	-	41,000
19.	Design Equipment Shop - Spindale	-	24,000
20.	Design Equipment Shop - Washington	-	40,000
21.	Design Equipment Shop - Wentworth	-	44,000
22.	Bridge Maintenance Warehouse/Shed - Town of Union	-	81,000
23.	Design Sign Shop - Carthage	-	33,000
24.	Design Resident Engineer Office - Marion	-	18,000
25.	Design Equipment Shop - Kinston	-	43,000
TOTAL DIVISION OF HIGHWAYS		<u>\$2,653,000</u>	<u>\$6,048,000</u>

DIVISION OF MOTOR VEHICLES

	<u>1991-92</u>	<u>1992-93</u>
01. Upgrade Electrical Power, Communication and Computer Circuits - Raleigh Division of Motor Vehicles Building	\$ 216,200	\$ -
02. Building Addition - Wilmington	221,900	-
03. Building Addition - Statesville	170,075	-
04. New Office Building - Asheville	635,100	-
05. Roof Replacement (7 Locations)	100,500	-
06. Resurface Parking Lots (6 Locations)	107,500	-
07. Roof Replacement (7 Locations)	-	103,100
08. Resurface Parking Lots (6 Locations)	-	111,900
09. Building Addition - Goldsboro	-	167,630
10. Building Addition - Whiteville	-	164,770
11. Building Addition - Hillsborough	-	179,200
12. Building Addition - Kinston	-	179,200
13. Building Addition - Jacksonville	-	174,800
14. Reserve to Make Restrooms Handicapped Accessible in DMV Facilities	25,000	25,000
<hr/>		
TOTAL DIVISION OF MOTOR VEHICLES	\$1,476,275	\$1,105,600
 CRIME CONTROL AND PUBLIC SAFETY		
01. State Highway Patrol - Troop H Headquarters - New Building	\$190,000	\$1,348,900
02. State Highway Patrol – Upgrade and replace		

underground fuel tanks	<u>300,000</u>	<u>300,000</u>
TOTAL CRIME CONTROL AND PUBLIC SAFETY	\$ 490,000	\$1,648,900
GRAND TOTAL HIGHWAY FUND	\$4,619,275	\$8,802,500

PART 45.—SPECIAL PROVISIONS

Requested by: Representative Diamont
 —UNC CAPITAL PROJECTS/FEES

Sec. 237. (a) All capital improvement projects proposed by the Board of Governors of The University of North Carolina as self-liquidating projects shall include plans for financing the projects, including estimates of the impact on student fees and other charges.

(b) The Board of Governors of The University of North Carolina shall adopt rules which limit the amount of student fees which may be charged to retire debt at each campus. These limitations may be phased in to accommodate these campuses whose fees already exceed the proposed limits.

(c) The Board of Governors of The University of North Carolina shall review annually the amounts and purposes for all student fees charged by each campus, in an effort to keep these nonacademic fees as low as possible.

Requested by: Representative Holt
 —REALLOCATE DMV FUNDS-ASHEVILLE

Sec. 238. Funds remaining from the appropriation to the Department of Transportation, Division of Motor Vehicles, in Section 8 of Chapter 1074 of the 1989 Session Laws, Regular Session 1990, for land purchase and building design-Asheville, are reallocated to the Division for land and building purchase-Asheville, including appraisal and other costs incidental to such purchase.

Requested by: Representatives H. Hunter, Etheridge, DeVane, N.J. Crawford, Foster, J.W. Crawford, Senator Martin of Pitt

—PARK REPAIR AND MAINTENANCE/REPORT

Sec. 238.1. (a) The funds appropriated to the Department of Environment, Health, and Natural Resources for the 1991-92 fiscal year in this Title shall be used for park repair and maintenance projects.

(b) The Division shall report to the Joint Legislative Commission on Governmental Operations and to the Office of State Budget and Management by September 20, 1991, on its proposed use of the funds available pursuant to this section. The Division shall not expend or obligate any of these funds until it has made this report.

Requested by: Representative Payne
 —WATER RESOURCES DEVELOPMENT PROJECTS

Sec. 238.2. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the 1991-92 fiscal year, the sum of \$2,055,000 shall be used for water resources development projects. The Department shall fund the following projects, whose estimated costs are as indicated:

(1)	Wilmington Harbor Maintenance and Dredging	\$ 475,000
(2)	Morehead City Harbor	50,000
(3)	Northeast Cape Fear River Navigation	280,000
(4)	Stumpy Point Bay Maintenance Dredging	220,000
(5)	Great Coharie Creek Clearing & Snagging (Sampson County)	26,000
(6)	Wilmington Harbor Comprehensive Study	270,000
(7)	Corps of Engineers Feasibility Studies	75,000
(8)	Planning Assistance to State Corps of Engineers	9,000
(9)	Town Fork Flood Control and Water Supply (Stokes County)	650,000

(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 1991-92 fiscal year, or if the projects listed in subsection (a) are accomplished at a lower cost, the Department may use the resulting fund availability to fund:

- (1) Corps of Engineers project feasibility studies, or
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1991-92, or
- (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 1992-93 fiscal year.

(c) Beginning October 1, 1991, the Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Director of the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include:

- (1) All projects listed in subsection (a) of this section;
- (2) The estimated cost of each project;
- (3) The date work on each project began or is expected to begin;
- (4) The date work on each project was completed or is expected to be completed; and
- (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: Representatives Barnes, Anderson, Redwine, Senators Basnight, Plyler, Marvin

—PRISON BOND APPROPRIATIONS

Sec. 239. (a) **General Purposes.** The appropriations hereby made by the 1991 General Assembly for capital improvements from the proceeds of the \$200,000,000 State of North Carolina Prison and Youth Services Facilities Bonds authorized by Chapter 935 of the 1989 Session Laws (the "bond act") and approved by the qualified voters of the State who voted thereon on November 6, 1990, as said bonds may be issued from time to time (the "bonds"), are for the purposes of financing the cost of \$112,500,000 of State prison facilities and youth services facilities, including, without limitation, the cost of constructing capital facilities, renovating or reconstructing existing facilities, acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds and notes and paying contractual services necessary for the partial implementation of the purposes of the bond act, all as defined in and authorized by the bond act and as more particularly described in this section.

The particular projects within the purposes under the bond act to be financed by the \$87,500,000 balance of the \$200,000,000 bond authorization may, as authorized by the bond act, be determined by legislative action of the General Assembly during the 1991 Session or any subsequent session.

(b) **Appropriation Procedures.** The appropriations hereby made by the 1991 General Assembly for the purposes under the bond act shall be disbursed for the particular projects authorized by this section. Expenditure of funds shall not be made by any State department, institution or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

Where direct capital improvement appropriations include furnishing fixed and movable equipment for any project, funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by this section shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the appropriations provided, except as otherwise provided in this section.

(c) **Descriptions, Custodial Levels, Beds, Projected Allocations.** Appropriations are made from bond proceeds for use by the Departments of Correction and Human Resources to provide for capital improvement projects as herein provided.

The proceeds of bonds and notes shall be expended for paying the cost, as defined in the bond act, of prison and youth services facilities, to the extent and as provided in this section and subject to change as herein provided, for the following projects:

DEPARTMENT OF CORRECTION

<u>Project Description</u> <u>Level</u>	<u>Custodial</u>	<u>Beds</u>
Nash Correctional Institution	Med	128

Marion Correctional Center	Med	906
Cherry Correctional Center	Min	500
Central Prison	Close	144
Pasquotank Youth Institution	Med	440
NCCIW	Close/Med	256
NCCIW – Repairs and Renovations		
Lumberton Correctional Center	Med	312
Fountain Correctional Center	Min	100
Greene Correctional Center	Min	200
Hyde Correctional Center	Med	312
Brown Creek Sewing Plant		
Pender Furniture Refurbishing Facility		
Columbus Sewing Facility		
Caswell Sewing and Tailoring Equipment		
Harnett Dining Hall		
Subtotal	3,298	\$96,980,702
Contingencies		<u>6,399,608</u>
TOTAL		\$103,380,310

DEPARTMENT OF HUMAN RESOURCES-DIVISION OF YOUTH SERVICES

7 Secure/nonsecure group homes
9 beds added to Pitt Detention Ctr.
Renovate unused dorms & upgrade
to meet American Correctional
Association Standards
Dillon secure unit, counseling
space, & fencing at 5 facilities
Conversion of dorms to individual
rooms
Increase number of transition
beds - step down & independent
living for Training Schools
\$9,119,690

(d) **Increases in Projected Allocations.** Projected allocations set forth above may be increased to reflect the availability of other funds, including, without limitation, contingency funds, income earned on the investment of bond and note proceeds, funds provided by the issuance of bonds under the remaining \$87,500,000 authorization, and the proceeds of any grants.

(e) **Contingency Funds.** The amount allocated for contingencies set forth above shall be placed by the State Treasurer in a special account in the State Prison and

Youth Services Facilities Bond Fund to be designated the "State Prison and Youth Services Facilities Contingency Account." The funds in the State Prison and Youth Services Facilities Contingency Account shall be disbursed in accordance with the procedures herein established for disbursements from the State Prison and Youth Services Facilities Bond Fund. The funds in the State Prison and Youth Services Facilities Contingency Account shall be expended for paying the cost of projects, including, without limitation, the costs of issuance of bonds and notes, increased project costs resulting from construction costs exceeding projected costs, inflationary factors and changes in projects and allocations. Any balance in the State Prison and Youth Services Facilities Contingency Account may be used for the particular projects to be financed by the issuance of bonds under the remaining \$87,500,000 authorization.

(f) **Administration.** With respect to facilities authorized for the Department of Correction, the Office of State Budget and Management may contract for and supervise all aspects of administration, technical assistance, design, construction or demolition of prison facilities in order to implement the providing of prison facilities under the provisions of this act without being subject to the requirements of the following statutes and rules implementing those statutes: G.S. 143-135.26(1), 143-128, 143-129, 143-131, 143-132, 143-134, 143-135.26, 143-64.10 through 143-64.13, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(b), 133-1.1(g), and 143-408.1; provided, however, of the funds allocated under the provisions of this act for the construction of prison facilities, the Office of State Budget and Management shall have a verifiable ten percent (10%) goal for participation by minority and women-owned businesses. All contracts for the design, construction, or demolition of prison facilities shall include a penalty for failure to complete the work by a specified date.

The proposals for prison facilities authorized in this section shall be invited by advertisement in newspapers having general circulation in the State. The form of advertisement shall be prepared in the form of Section 301 of the State Construction Manual of the Department of Administration, and shall be published in one issue of the newspaper. A minimum of at least seven full days shall lapse between the date of publication and the date of the opening of bids. Initiation of the advertisement shall be by the Office of State Budget and Management.

The Office of State Budget and Management shall consider alternative delivery systems that could expedite the delivery of prison facilities. Such delivery systems as design-build, using modular or conventional building systems, shall be considered. However, in order for such alternatives to be used, the Department of Correction must approve the proposed design for operational programming and cost of operations and maintenance.

(g) **Changes.** To the extent that funds are not required to be expended for the specific projects described in this section, appropriations authorized herein may be used to construct, reconstruct, or renovate prison industrial and forestry enterprise, facilities, as mentioned in G.S. 148-2, at prison facilities statewide, as replacement projects, and to make necessary prison facility repairs and renovations but no such funds may be used for operating expenditures. Prior to taking any action under subsection (g), the Governor may consult with the Advisory Budget Commission.

(h) **Quarterly Reports.** The Office of State Budget and Management in respect to prison facilities and the Department of Human Resources in respect to youth services facilities shall provide quarterly reports to the Chairman of the Appropriations Committee and the Base Budget Committee in the Senate, the Chairman of the Appropriations Committee in the House, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division as to any changes in projects and allocations made under this section. To the extent that funds remain unexpended, they shall be subject to further reallocation or reappropriation by the General Assembly for purposes permitted by the Bond Act.

Requested by: Representatives Barnes, Anderson, Redwine, Senators Basnight, Plyler, Marvin

—RESERVE FOR ADMINISTRATION AND OPERATION OF NEW UNITS

Sec. 240. Of the funds appropriated from the General Fund to the Department of Correction for the 1992-93 fiscal year in Title II of this act, a reserve of \$10,246,368 shall be used to administer and operate the new prison units being constructed with the bond proceeds appropriated in this Title. The positions shall not become effective more than 90 days prior to the completion date of the facilities with the exception of Department of Correction administrative staff, Division of Prisons administrative staff, superintendents, assistant superintendents, administrative services managers, plant maintenance supervisors, and secretaries at the Marion Correctional Institution, Cherry Correctional Center, Pasquotank Youth Institution, Lumberton Correctional Center, Hyde Correctional Center, and Greene Correctional Center.

Requested by: Representatives Barnes, Anderson, Redwine, Senators Basnight, Plyler, Marvin

—PITT COUNTY DETENTION CENTER ADDITION/RESERVE FUND

Sec. 241. Of the funds appropriated to the Department of Human Resources for the 1992-93 fiscal year in Title 2 of this act, a reserve of \$60,000 shall be used to administer and operate the addition to the Pitt County Detention Center being constructed with the bond proceeds appropriated in this Title.

Requested by: Senator Soles

—WATER LINES/COLUMBUS COUNTY NEW HIGH SCHOOL

Sec. 241.1. The Director of the Budget shall use up to \$250,000 from interest accumulated in the Clean Water Revolving Loan and Grant Program in the 1991-92 fiscal year for increasing the size of water and sewer lines, and related pumping facilities, planned for extension to the new high school in Columbus County along Highway 701 north of Tabor City.

Requested by: Representative Barnes

—UNC REMOVAL OF HANDICAPPED BARRIERS

Sec. 242. (a) Of the funds appropriated in this Title to the Board of Governors of The University of North Carolina, \$2,000,000 shall be used for the

elimination of man-made barriers that make the programs or activities of the constituent institutions of the University inaccessible to or unusable by handicapped persons.

(b) Prior to allocating funds for barrier removal, the Board of Governors shall adopt a comprehensive plan, to be completed by no later than January 1, 1992, which shall include:

- (1) A survey of facilities at each constituent institution, to determine which facilities must be modified to insure that institutional programs or activities, when viewed in their entirety, are readily accessible to handicapped persons. The institutional surveys shall be conducted in accordance with definitions and standards adopted by the U.S. Department of Education, under the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and shall incorporate any findings made by the Office for Civil Rights of the U.S. Department of Education pursuant to either complaint investigations or technical assistance surveys conducted at constituent institutions of the University. In conducting the survey, each institution shall establish and enlist the assistance of an advisory committee, which shall include handicapped members of the institutional community or their representatives.
- (2) A description of the nature and estimated cost of each facility modification identified in the institutional surveys.
- (3) A schedule for addressing adjustments and modifications designed to insure accessibility, based on the following priorities:
 - a. Nonstructural adjustments. If a program or activity of a constituent institution can be made readily accessible to handicapped persons without structural adjustments, as through reassignment of classes or other services to accessible facilities or making aides available to handicapped persons, such modifications shall be made within 60 days of the date of their identification by the institutional surveys, without regard to the schedule for facility modifications.
 - b. Facility modifications which can be accomplished within one year after their starting date.
 - c. Facility modifications which cannot be accomplished within one year but can be accomplished within three years after their starting date.
 - d. Other facility modifications.
- (4) A system for insuring that future facilities are accessible.

(c) The Board of Governors may allocate up to \$200,000 of the bond proceeds to conduct the surveys and complete the plan required by this section.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—RESERVE FOR ADVANCE PLANNING

Sec. 243. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Office of State Budget and Management shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 244. When each capital improvement project appropriated by the 1991 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—PROJECT COST INCREASE

Sec. 245. Upon the request of the administration of a State department or institution, the Director of the Budget may, when in his opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, he shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—NEW PROJECT AUTHORIZATION

Sec. 246. Upon the request of the administration of any State department or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be

funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Provided, however, that if the Director of the Budget authorizes the construction of such a capital improvement project, he shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Sec. 247. Funds which become available by gifts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund may not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler
—APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 248. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 1991 General Assembly may be expended only for specific projects set out by the 1991 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 1991 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended up to an additional 12 months if circumstances and conditions warrant such extension.

TITLE IV. - REVENUE RECONCILIATION

PART 46.—INTERNAL REVENUE CODE UPDATE

Sec. 249. G.S. 105-2.1 reads as rewritten:
"§ 105-2.1. Internal Revenue Code definition.

As used in this Article, the term 'Code' means the Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, and includes any provisions enacted as of that date which become effective either before or after that date."

Sec. 250. G.S. 105-114(b)(1) reads as rewritten:

"(1) The term 'Code' means the Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, and includes any provisions enacted as of that date which become effective either before or after that date."

Sec. 251. G.S. 105-131(b)(1) reads as rewritten:

"(1) 'Code' means the Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, and includes any provisions enacted as of that date which become effective either before or after that date."

Sec. 252. G.S. 105-134.1(1) reads as rewritten:

"(1) Code. The Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, including any provisions enacted as of that date which become effective either before or after that date. ~~date, but not including sections 63(e)(4) and 151(d)(3).~~"

Sec. 253. G.S. 105-134.6(b)(8) reads as rewritten:

"(8) The amount by which the taxpayer's ~~mortgage interest deduction deductions allowed~~ under the Code ~~was reduced pursuant to section 163(g) of the Code.~~ were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction, to the extent that a similar credit is not allowed by this Division for the amount."

Sec. 254. G.S. 105-134.6(c)(4) reads as rewritten:

"(4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4) of the Code and the amount by which the taxpayer's personal exemptions have been increased for inflation under section ~~151(d)(3)~~ 151(d)(4) of the Code. For the purpose of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage."

Sec. 255. G.S. 105-163.1(1) reads as rewritten:

"(1) Code. – The Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, including any provisions enacted as of that date which become effective either before or after that date."

Sec. 256. G.S. 105-212(f) reads as rewritten:

"(f) As used in this section, the term 'Code' means the Internal Revenue Code as enacted as of ~~January 1, 1990,~~ January 1, 1991, and includes any provisions enacted as of that date which become effective either before or after that date."

PART 47.—CORPORATE INCOME TAX CHANGES

Sec. 257. G.S. 105-130.2 reads as rewritten:

"§ 105-130.2. Definitions.

For the purpose of this Division, and unless otherwise required by the context: The following definitions apply in this Division:

- (1) 'Code' means the Code. – The Internal Revenue Code as enacted as of January 1, 1990, and includes 1991, including any provisions enacted as of that date which become effective either before or after that date.
- (1a) The word 'corporation' – Corporation. – This term includes joint-stock companies or associations and insurance companies.
- (1b) C Corporation. – A corporation that is not an S Corporation.
- (1c) Department. – The Department of Revenue.
- (2) The words 'domestic corporation' mean any Domestic corporation. – A corporation organized under the laws of this State.
- (3) The words 'fiscal year' mean an Fiscal year. – An income year, ending on the last day of any month other than December. A corporation which that pursuant to the provisions of the Code has elected to compute its federal income tax liability to the United States on the basis of an annual period varying from 52 to 53 weeks shall compute its taxable income for the purposes of this division under this Division on the basis of the same period used by such the corporation in accordance with the Code in computing its federal income tax liability to the United States for such for the income year.
- (4) The words 'foreign corporation' mean any Foreign corporation. – Any corporation other than a domestic corporation.
- (5) The words 'income year' or 'taxable year' mean the Income year. – The calendar year or the fiscal year upon the basis of which the net income is computed under this division; provided, that if Division. If no fiscal year has been established, they mean the income year is the calendar year. year, except that in In the case of a return made for a fractional part of a year under the provisions of this Division or under rules or regulations prescribed adopted by the Secretary of Revenue, the words 'income year' or 'taxable year' mean Secretary, the income year is the period for which such the return is made.
- (5a) S Corporation. – Defined in G.S. 105-131(b).
- (5b) Secretary. – The Secretary of Revenue.
- (5c) State net income. – Federal taxable income adjusted as provided in G.S. 105-130.5 and, in the case of a corporation that has income from business activity that is taxable both within and without this State, allocated and apportioned to this State as provided in G.S. 105-130.4.
- (5d) Taxable year. – Income year.
- (6) The word 'taxpayer' includes any Taxpayer. – A corporation subject to the tax imposed by this Division."

Sec. 258. G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State at seven and seventy-five one-hundredths percent (7.75%) of the corporation's State net income. An S Corporation is not subject to the tax levied in this section.

~~Every corporation doing business in this State shall pay annually an income tax equivalent to seven percent (7%) of its net income or the portion thereof allocated and apportioned to this State, except that an S Corporation subject to the provisions of Division I S of this Article shall not be subject to the tax levied by this section.~~

~~The net income or net loss of such corporation shall be the same as 'taxable income' as defined in the Code subject to the adjustments provided in G.S. 105-130.5.~~

~~If the entire business of the corporation is done within this State or if the corporation is not taxable in another state within the meaning of subsection (b) of G.S. 105-130.4, the tax shall be measured by the entire net income of the corporation for the income year.~~

~~If the business of the corporation is taxable both within and without this State, its entire net income or net loss shall be allocated and apportioned in accordance with the provisions of G.S. 105-130.4."~~

Sec. 259. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.3A. Temporary surtax.

(a) Surtax. – In addition to the income tax imposed by G.S. 105-130.3, every taxpayer required to file a return under this Division shall pay an income tax surtax equal to a percentage of the tax payable by the taxpayer under G.S. 105-130.3 for the taxable year. This surtax is due at the time prescribed in G.S. 105-130.17 for filing corporation income tax returns.

(b) Rates. – The percentage rates of the surtax levied in this section are as follows:

- (1) For the taxpayer's taxable year beginning in 1991, four percent (4%).
- (2) For the taxpayer's taxable year beginning in 1992, three percent (3%).
- (3) For the taxpayer's taxable year beginning in 1993, two percent (2%).
- (4) For the taxpayer's taxable year beginning in 1994, one percent (1%)."

Sec. 260. G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs.

(b) Beginning October 1, 1987, and each month thereafter through July 31, 1988, the Secretary of Revenue shall deposit with the State Treasurer in the Public School Building Capital Fund one seventh (1/7) of the corporate income tax net collections received during the previous month by the Department of Revenue under Division I of Article 4 of Chapter 105 of the General Statutes. Beginning July 1, 1988, the Each calendar quarter, the Secretary of Revenue shall, on a quarterly basis, deposit with shall remit to the State Treasurer in for credit to the Public School Building Capital Fund an amount equal to two thirty-firsts (2/31) of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). (\$2,500,000) less than one-

~~fourteenth (1/14) of the corporate income tax net collections received during the previous quarter by the Department of Revenue under Division I of Article 4 of Chapter 105 of the General Statutes. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

(c) The Fund shall be administered by the Office of State Budget and Management."

Sec. 261. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 1991, and before January 1, 1992, with respect to an underpayment of corporation income tax to the extent the underpayment was created or increased by this act.

PART 48.—CIGARETTE TAX CHANGES

Sec. 262. G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. ~~Privilege tax levied.~~ Tax on cigarettes.

~~In addition to all other taxes and fees, a tax is hereby levied upon the sale or possession for sale within this State, by distributors, of all cigarettes at the rate of one mill per individual cigarette. A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of two and one-half mills per individual cigarette.~~

~~The tax hereby levied shall not apply to~~ This tax does not apply to any of the following:

- (1) Sample free distribution of sample cigarettes distributed without charge in packages containing five or fewer cigarettes nor to any cigarettes.
- (2) Cigarettes in a package of cigarettes customarily donated free of given without charge by manufacturers of cigarettes to employees in factories where cigarettes are manufactured in this State where such packages of cigarettes the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government."

Sec. 263. G.S. 105-113.7 reads as rewritten:

"§ 105-113.7. ~~Tax with respect to inventory on effective date of Article.~~ tax increase.

~~Every person-distributor subject to the taxes levied in G.S. 105-113.5 and G.S. 105-113.6 this Article who, on the effective date of a tax increase under this Article, has on hand any cigarettes shall file a complete inventory thereof of the cigarettes within 20 days thereafter, after the effective date of the increase, and shall pay an additional tax to the Secretary at the time of when filing such inventory a tax with respect thereto computed at the rate set forth in G.S. 105-113.5 and G.S. 105-113.6. All provisions of this Article relative to the collection, verification and administration of the tax herein imposed shall, insofar as pertinent, be applicable to the tax imposed by this section, but the affixing of stamps as evidence of the payment of such tax by persons subject to the taxes levied in G.S. 105-113.6 shall not be necessary except as the Secretary by~~

~~regulation or administrative rule may require the inventory. The amount of tax due is the amount due based on the difference between the former tax rate and the increased tax rate."~~

PART 49.—OTHER TOBACCO TAX CHANGES

Sec. 264. The heading to Article 2A of Chapter 105 of the General Statutes reads as rewritten:

"Schedule B-A. Cigarette-Tobacco Products Tax."

Sec. 265. Article 2A of Chapter 105 of the General Statutes is amended as follows:

- (1) By designating G.S. 105-113.2 through G.S. 105-113.4 as Part 1 with the heading "General Provisions."
- (2) By designating G.S. 105-113.5 through G.S. 105-113.34 as Part 2 with the heading "Cigarette Tax."
- (3) By designating G.S. 105-113.35 through G.S. 105-113.40 as Part 3 with the heading "Tax on Other Tobacco Products."

Sec. 266. G.S. 105-113.2 reads as rewritten:

"§ 105-113.2. Short title.

This Article may be cited as the 'Cigarette-Tobacco Products Tax Act' or 'Cigarette Tobacco Products Tax Article.'"

Sec. 267. G.S. 105-113.4 reads as rewritten:

"§ 105-113.4. Definitions.

~~The following words, terms, and phrases when used in this Article have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: definitions apply in this Article:~~

- (1) Cigar. – A roll of tobacco wrapped in a substance that contains tobacco, other than a cigarette.
- ~~(1)~~(1a) 'Cigarette' means—Cigarette. – Any of the following:
 - a. ~~Any~~ A roll of tobacco wrapped in paper or in ~~any~~ a substance that ~~does not containing tobacco, and contain tobacco.~~
 - b. ~~Any~~ A roll of tobacco wrapped in ~~any~~ a substance ~~containing that contains tobacco which, and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers by a consumer as a cigarette described in subparagraph (1) a above.~~ subpart a. of this subdivision.
- (2) 'Secretary' means Secretary of Revenue of the State of North Carolina. Cost price. – The price a person liable for the tax on tobacco products imposed by Part 3 of this Article paid for the products, before any discount, rebate, or allowance or the tax imposed by that Part.
- (3) 'Distributor' means any Distributor. – Any person, wherever resident or located, who purchases unstamped cigarettes directly from the manufacturer thereof and stores, sells or otherwise disposes of the

same; and also any person who manufactures or produces cigarettes or causes them to be manufactured or produced.

- (4) ~~'In this State' or 'within this State' means within the exterior limits of the State of North Carolina, and includes all territory within such limits owned by, leased by or ceded to the United States of America.~~
- (5) ~~'Licensed distributor' means any distributor, as defined in this Article, Licensed distributor. – A distributor licensed under the provisions Part 2 of this Article.~~
- (6) ~~'Manufacturer' means any Manufacturer. – A person engaged in the manufacture or production of cigarettes. who manufactures or produces tobacco products.~~
- (7) ~~'Package' means the Package. – The individual packet, can, box box, or other container used to contain and to convey cigarettes tobacco products to the consumer.~~
- (8) ~~'Person' means and includes any Person. – An individual, a firm, copartnership, joint venture, a partnership, an association, a corporation, estate, trust, business trust, receiver, syndicate, or any other organization or group or combination acting as a unit, the State or any of its political subdivisions, and the plural as well as the singular number. unit.~~
- (9) ~~'Retail dealer' means any Retail dealer. – A person other than a distributor engaged in this State in the business of selling cigarettes at retail. who sells a tobacco product to the ultimate consumer of the product.~~
- (10) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever. Sale. – A transfer, a trade, an exchange, or a barter, in any manner or by any means, with or without consideration.~~
- (10a) Secretary. – The Secretary of Revenue.
- (11) ~~'Stamp' means any Stamp. – Any impression, device, stamp, label label, or print manufactured, printed printed, or made as prescribed by the Secretary under Part 2 of this Article.~~
- (11a) Tobacco product. – A cigarette, a cigar, or any other product that contains tobacco and is intended for inhalation or oral use.
- (12) ~~'Unstamped' means not Unstamped. Not bearing a North Carolina cigarette tax stamp prescribed by the Secretary under this Article. stamp.~~
- (13) ~~'Use' means the Use. – The exercise of any right or power over cigarettes, incident to the ownership or possession thereof, other than the making of a sale thereof in the course of engaging in a business of selling cigarettes and shall include cigarettes. The term includes the keeping or retention of cigarettes for use.~~

(14) Wholesale dealer. – A person who makes tobacco products other than cigarettes or who acquires tobacco products other than cigarettes for sale to another wholesale dealer or to a retail dealer."

Sec. 268. G.S. 105-113.3 reads as rewritten:

"§ 105-113.3. Purpose. Scope of tax; administration.

~~It is hereby declared to be the intent and purpose of this Article that the incidence of the tax herein provided for shall rest upon the ultimate consumer and not upon the grower or processor of leaf tobacco or upon the manufacturer of cigarettes. This tax shall be paid to the State only once, regardless of the number of times the cigarettes may be sold in this State, but it is the intent of this Article that such tax shall be added to the sales price and passed on from successive sellers to successive purchasers so that it may be included in the ultimate purchase price of the final or last purchaser. The amount of the tax may be stated separately from the price of cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price, but it is not required that it be stated in such manner or in any other manner. The provisions of this section shall in no way affect the assessment, levy or collection of the taxes provided for by this Article, as the same may be more specifically provided herein with respect to activities hereinafter described, but merely states the general intent with respect to this Article. (a) Scope. – The taxes imposed by this Article shall be collected only once on the same tobacco product. Except as permitted by Article 2 of this Chapter, a city or county may not levy a privilege license tax on the sale of tobacco products.~~

~~(b) Administration. – Except as provided in this section, Article 9 of this Chapter applies to this Article. If a person fails or refuses to pay a tax due under this Article, a penalty shall be added to the tax due in an amount equal to fifty percent (50%) of the tax due.~~

Sec. 269. G.S. 105-113.35 reads as rewritten:

"§ 105-113.35. Interest and penalty. Tax on tobacco products other than cigarettes.

~~If any person shall neglect, fail or refuse to pay any tax due under this Article, interest shall be added thereto at the rate established pursuant to G.S. 105-241.1(i) from the date due until paid and there shall also be added to said tax an amount equal to fifty percent (50%) thereof. (a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of two percent (2%) of the cost price of the products. This tax does not apply to the following:~~

- ~~(1) A tobacco product sold outside the State.~~
- ~~(2) A tobacco product sold to the federal government.~~
- ~~(3) A sample tobacco product distributed without charge.~~

~~(b) Primary Liability. – The wholesale dealer or retail dealer who first acquires or otherwise handles tobacco products subject to the tax imposed by this section is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State. A wholesale dealer or retail dealer who is the original consignee of a tobacco product that is made outside the State and is shipped into the State is the first person to handle the tobacco product in this State.~~

(c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax."

Sec. 270. G.S. 105-113.36 reads as rewritten:

"§ 105-113.36. General administrative provisions of Revenue Act applicable. Wholesale dealer and retail dealer must obtain license.

~~All provisions not inconsistent with this Article contained in Article 9 entitled "General Administration; Penalties and Remedies" of Subchapter I of Chapter 105 of the General Statutes, including but not limited to administration, auditing, making returns, promulgation of administrative rules and regulations by the Secretary, additional taxes, assessment procedure, imposition and collection of taxes of the lien thereof, assessments, refunds and penalties are hereby made a part of this Article and shall be applicable thereto.~~

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a fee of ten dollars (\$10.00) for the license. A 'place of business' is a place where a wholesale dealer or where a retail dealer makes tobacco products other than cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes."

Sec. 271. G.S. 105-113.37 reads as rewritten:

"§ 105-113.37. Secretary to make rules and regulations. Payment of tax.

~~Subject to the provisions of G.S. 105-262, the Secretary is hereby authorized and empowered to make all reasonable regulations and administrative rules necessary for the efficient administration and enforcement of this Article not inconsistent with the provisions of this Article. Upon request, he shall furnish any taxpayer with a copy of such rules and regulations. All provisions with respect to reviews and appeals from the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3 and 105-241.4 of the General Statutes shall be applicable to this Article.~~

(a) Monthly Report. – Except for tax on a designated sale under subsection (b), the taxes levied by this Article are payable when a report is required to be filed. A report is due on a monthly basis. A monthly report covers sales and other activities occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

(b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco product to a person who has notified the wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under G.S. 105-113.35(a)(1) or (2) may, when filing a monthly report under subsection (a), designate the quantity of tobacco products sold to the person for resale. A wholesale dealer shall report a designated sale on a form provided by the Secretary.

A wholesale dealer is not required to pay tax on a designated sale when filing a monthly report. The wholesale dealer shall pay the tax due on all other sales in accordance with this section. A wholesale dealer or a customer of a wholesale dealer may not delay payment of the tax due on a tobacco product by failing to pay tax on a sale that is not a designated sale or by overstating the quantity of tobacco products that will be resold in a transaction exempt under G.S. 105-113.35(a)(1) or (2).

A person who does not sell a tobacco product in a transaction exempt under G.S. 105-113.35(a)(1) or (2) after a wholesale dealer has failed to pay the tax due on the sale of the item to the person in reliance on the person's written notification of intent is liable for the tax and any penalties and interest due on the designated sale. If the Secretary determines that a tobacco product reported as a designated sale is not sold as reported, the Secretary shall assess the person who notified the wholesale dealer of an intention to resell the item in an exempt transaction for the tax due on the sale and any applicable penalties and interest. A wholesale dealer who does not pay tax on a tobacco product in reliance on a person's written notification of intent to resell the item in an exempt transaction is not liable for any tax assessed on the item.

(c) Refund. – A wholesale dealer or retail dealer who pays tax on a tobacco product that is exempt from the tax may obtain a refund for the amount of tax paid by filing an application for refund with the Secretary on a form provided by the Secretary. An application for a refund must be submitted within the time allowed by G.S. 105-266 or G.S. 105-266.1."

Sec. 272. G.S. 105-113.38 reads as rewritten:

"§ 105-113.38. Tax to be paid only once. Bond.

Whenever the tax levied by this Article has been computed and paid to the State with respect to any cigarettes as provided by this Article, and appropriate stamps affixed, the same shall not be required to be paid again to the State regardless of how many times such cigarettes may thereafter be sold or resold, but the seller may add to his sales price thereafter the amount of such tax. The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall proportion a bond amount to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall periodically review the sufficiency of bonds required of dealers, and shall increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall decrease the amount of a required bond when the Secretary determines that a smaller bond amount will adequately protect the State from loss."

Sec. 273. G.S. 105-113.39 reads as rewritten:

"§ 105-113.39. Local units prohibited to tax. Discount.

No city, town or county shall levy any privilege license tax with respect to the sale of cigarettes other than as permitted by Article 2 of Subchapter I of Chapter 105 of the General Statutes.

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and who files a timely report under G.S. 105-113.37 may deduct from the amount due with the report a discount of four percent (4%). This discount covers losses due to damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

Sec. 274. G.S. 105-113.40 reads as rewritten:

"§ 105-113.40. Effective date of this Article. Records of sales, inventories, and purchases to be kept.

~~This Article shall be in full force and effect on and after July 1, 1969, or on the first day of the month next after the ninetieth day from its ratification, whichever is the later date. However, the Secretary is authorized, prior to that time, to do all things necessary to the implementation of the provisions of this Article, including making regulations and administrative rules, procuring the manufacture of stamps, and providing for sale of the same, in order to secure effective administration of this Article on and after its effective date. Every wholesale dealer and retail dealer shall keep accurate records of the dealer's purchases, inventories, and sales of tobacco products. These records shall be open at all times for inspection by the Secretary or an authorized representative of the Secretary."~~

PART 50.—SOFT DRINK TAX ADMINISTRATIVE CHANGES

Sec. 275. G.S. 105-113.44 reads as rewritten:

"§ 105-113.44. Definitions.

~~As used in this Article, unless the context otherwise requires: The following definitions apply in this Article:~~

- (1) ~~'Base products' means hot chocolate flavored drink mix, flavored milk shake bases, concentrate products to which milk or other liquid is added to complete a soft drink, and all like items or products as herein defined which will be taxed as syrups. Base product. The compound mixture or basic ingredients to which liquid milk or another liquid is added to complete a soft drink. The term includes a powder, a simple syrup, a chocolate syrup, other syrups, and a concentrate.~~
- (2) ~~'Bottled' means enclosed in any closed or sealed glass, metal, paper or other type of bottle, can, carton or container, regardless of the size of such container. Bottled. In a closed container of any kind.~~
- (3) ~~'Soft drink' means any complete, finished, ready to use, nonalcoholic drink, whether carbonated or not, such as soda water, ginger ale, Nu-Grape, Coca-Cola, lime cola, Pepsi-Cola, bud wine, near beer, fruit juice, vegetable juice, milk drinks when any flavoring or syrup is added, eider, carbonated water and all preparations commonly referred to as soft drinks of whatever kind or description.~~
- (4) ~~'Secretary' means the North Carolina Secretary of Revenue.~~

- (5) ~~'Crowns' means crowns, caps and lids bearing any tax indicia other than stamps evidencing the payment of the excise tax levied under this Article. 'Crowns' shall also include waxed paper or plastic containers used by dairies upon which the tax indicia has been imprinted by the manufacturer thereof.~~
- (6) ~~'Distributor' includes any person who manufactures, bottles, compounds, mixes or purchases for sale to retail dealers or wholesale dealers any bottled soft drink, soft drink syrup or powder, or base product for mixing, making or compounding soft drinks. Distributor. A person who makes bottled soft drinks or base products or who acquires bottled soft drinks or base products for sale to a wholesale dealer or a retail dealer.~~
- (7) ~~'Excise tax' means the soft drink tax levied under G.S. 105-113.45. Juice. Any of the following:~~
- ~~a. The liquid that results from pressing fresh fruit or fresh vegetables.~~
 - ~~b. The concentrate produced by dehydrating a liquid described in subpart a.~~
 - ~~c. The liquid that results from adding water to a concentrate described in subpart b.~~
- (8) ~~'In this State' or 'within this State' means within the exterior limits of the State of North Carolina and includes all territory within such limits owned by, leased by or ceded to the United States of America. Milk. Any of the following:~~
- ~~a. Liquid milk, regardless of butterfat content.~~
 - ~~b. The powder produced by dehydrating liquid milk.~~
 - ~~c. The liquid that results from adding water to dehydrated liquid milk.~~
- (9) ~~'Natural fruit juice' means the natural liquid which results from the pressing of sound ripe fruit, and the liquid which results from the reconstitution of natural fruit juice concentrate by the restoration of water to dehydrated natural fruit juice. Natural. Without added ingredients of any kind other than vitamins. Added ingredients include sugar, salt, preservatives, artificial flavoring, coloring, and carbonation.~~
- (10) ~~'Natural liquid milk' means natural liquid milk regardless of butterfat content, and the liquid milk product which results from the reconstitution of natural milk concentrate, regardless of butterfat content, by the restoration of water to dehydrated or evaporated natural milk.~~
- (11) ~~'Natural vegetable juice' means the natural liquid which results from the pressing of sound ripe vegetables or the liquid which results from the reconstitution of natural vegetable juice concentrate by the restoration of water to dehydrated natural vegetable juice.~~

- (12) ~~'Person' includes any Person. An individual, a firm, a partnership, joint venture, an association, a corporation, estate, trust, receiver, syndicate or any other organization or group or combination acting as a unit, the State or any of its political subdivisions, and the plural as well as the singular number. unit.~~
- (13) ~~'Powders' means compressed powders, crystals, granules or tablets from which soft drinks can be made. Powder. Crystals, granules, tablets, and other dry products.~~
- (14) ~~'Retail dealer' includes every person, other than a distributor or wholesale dealer, who makes, mixes, compounds or manufactures any drink from a soft drink syrup or powder or base product, and sells or otherwise dispenses the same to the ultimate consumer, and every person, other than a distributor or wholesale dealer, who sells or otherwise dispenses any bottled soft drink to the ultimate consumer. Retail dealer. A person who sells bottled soft drinks or base products to the ultimate consumer or who makes soft drinks from base products and sells the soft drinks to the ultimate consumer.~~
- (15) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter, gift or offer for sale and distribution, in any manner or by any means whatsoever. Sale. A transfer, a trade, an exchange, or a barter, in any manner or by any means, with or without consideration.~~
- (16) ~~'Simple syrup' means the product resulting from the making, mixing, compounding or manufacturing by dissolving sugar and water or any other mixture that will create syrup to which may be added concentrates or extracts. Secretary. The Secretary of Revenue.~~
- (17) ~~'Soda fountain' includes all places where soft drinks are compounded for sale, including automatic vending machines. Soft drink. A beverage that is not an alcoholic beverage, as defined in G.S. 105-113.68.~~
- (18) ~~'Soft drink syrups and powders' includes the compound mixture or the basic ingredients, whether dry or liquid, practically and commercially usable in making, mixing or compounding soft drinks by the mixing thereof with carbonated or plain water, ice, fruit juice, milk or any other product suitable to make soft drinks, among such syrups being such products as Coca Cola syrup, Chero Cola syrup, Pepsi Cola syrup, Dr. Pepper syrup, root beer syrup, Nu Grape syrup, lemon syrup, vanilla syrup, chocolate syrup, cherry smash syrup, rock candy syrup, simple syrup, chocolate drink powder, malt drink powder, or any other prepared syrups or powders sold or used for the purpose of mixing soft drinks commercially at soda fountains, restaurants or similar places as well as those powder bases prepared for the purpose of domestically mixing soft drinks such as kool aid, oh boy drink, tip-top, miracle aid and all other similar products. Concentrated natural~~

~~frozen or unfrozen fruit juices or vegetable juices when used domestically are specifically excluded from this definition.~~

- (19) ~~'Stamp' means the North Carolina taxpaid stamp evidencing the payment of the excise tax levied by this Article, and which may be used as permitted by the Secretary in lieu of taxpaid crowns.~~
- (20) ~~'Wholesale dealer' includes any person who sells bottled soft drinks, soft drink syrups or powders, or base products for mixing, compounding or making soft drinks to retail dealers or other wholesale dealers for resale purposes. Wholesale dealer. A person who sells bottled soft drinks or base products to another for resale."~~

Sec. 276. G.S. 105-113.45 reads as rewritten:

"§ 105-113.45. Taxation rate. Excise taxes on soft drinks and base products.

(a) ~~Bottled Soft Drinks. – A soft drink excise tax is hereby levied and imposed on and after midnight, September 30, 1969, upon the sale, use, handling and distribution of all soft drinks, soft drink syrups and powders, base products and other items referred to in this section. An excise tax of one cent (1¢) is levied on each bottled soft drink.~~

~~(b) The rate of tax on each bottled soft drink shall be one cent (1¢).~~

(c) ~~Liquid Base Products. – The rate of tax on each gallon of soft drink syrup or simple syrup shall be one dollar (\$1.00), and on a fraction of a gallon the rate shall be an amount which represents one dollar (\$1.00) multiplied by the same fraction of a gallon. The rate of a tax on each ounce or fraction of an ounce of soft drink syrup or simple syrup shall be four fifths of a cent (4/5¢), and no exemption or refund shall be allowed on such syrup even though it may subsequently be diverted to some purpose other than the making of soft drinks. An excise tax of one dollar (\$1.00) a gallon, or four-fifths of a cent (4/5¢) an ounce or fraction of an ounce, is levied on a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink.~~

(d) ~~Dry Base Products. – The rate of tax on dry soft drink powders and base products which are used to make soft drinks without being converted into syrup shall be one cent (1¢) per ounce or fraction thereof of the dry powder or base product weight. However, the tax on dry soft drink powder or base product which is to be converted into syrup shall be the same as that which would be due upon the syrup produced, if the syrup were being taxed according to the rates set out in subsection (c) above. An excise tax is levied on a dry base product at the rate:~~

~~(1) Of one cent (1¢) an ounce or fraction of an ounce if the dry base product is not converted into a syrup or other liquid base product before it is used to make a soft drink.~~

~~(2) That would apply under subsection (c) to the resulting liquid base product if the dry base product is converted into a liquid base product before it is used to make a soft drink.~~

~~(e) The excise tax herein levied on syrups, powders and base products shall not apply to syrups, powders and base products used by persons in the manufacture of bottled soft drinks which are otherwise subject to tax under this Article. The Secretary may by administrative rules or regulation, provide for the storage of such syrups,~~

powders and base products when they are not for use in the manufacture of bottled soft drinks."

Sec. 277. G.S. 105-113.46 reads as rewritten:

"§ 105-113.46. Exemption of certain milk drinks. Exemptions.

The taxes imposed by this Article do not apply to an item that is listed in this section and, if the item is a bottled soft drink or a juice concentrate included in subdivision (2) or (3), is registered with the Secretary in accordance with G.S. 105-113.47:

- (1) A natural liquid milk drink produced by a farmer or a dairy.
- (2) A bottled soft drink that contains at least thirty-five percent (35%) natural milk measured by volume and is not exempt under subdivision (1).
- (3) Natural juice.
- (4) Natural water.
- (5) A base product used to make a bottled soft drink subject to tax under this Article.
- (6) Coffee or tea in any form.
- (7) A bottled soft drink or base product sold outside the State.
- (8) A bottled soft drink or base product sold to the federal government.
- (9) A base product for domestic use, except a base product that does not contain any milk and to which a liquid other than milk is added to make a soft drink.

~~All natural liquid milk drinks produced by farmers or dairies shall be exempt from the payment of the soft drink excise tax. Where a product other than the above is produced, such product is subject to the tax unless otherwise exempt under this Article."~~

Sec. 278. G.S. 105-113.47 reads as rewritten:

"§ 105-113.47. Natural fruit or vegetable juice or natural liquid milk drinks exempted from tax. Registration of certain exempt bottled soft drinks and juice concentrates.

~~(a) Requirement. —All bottled soft drinks containing thirty five percent (35%) or more of natural fruit or vegetable juice and all bottled natural liquid milk drinks containing thirty five percent (35%) or more of natural liquid milk, are exempt from the excise tax imposed by this Article, except that this exemption shall not apply to any fruit or vegetable juice drink to which has been added any coloring, artificial flavoring or preservative. Sugar, salt or vitamins shall not be construed to be an artificial flavor or preservative. To be exempt from the tax imposed by this Article, the following items must be registered with the Secretary as an exempt item:~~

- (1) A bottled soft drink that contains at least thirty-five percent (35%) natural milk measured by volume and is not exempt under G.S. 105-113.46(1).
- (2) A natural juice bottled soft drink.
- (3) A natural juice concentrate.

To register an item as exempt, the person who controls the brand name or formula of the item must file an application for registration with the Secretary on a form provided by the Secretary. An application must include an affidavit stating the complete and

itemized formula by volume of the bottled soft drink or juice concentrate that is the subject of the application.

~~(b) Determination. — Any bottled soft drink for which exemption is claimed under this section must be registered with the Secretary. No bottled soft drink shall be entitled to the exemption until registration has been accomplished by the filing of an application for exemption on such form as may be prescribed by the Secretary, which form shall include an affidavit setting forth the complete and itemized formula by volume of the drink therein referred to, and the failure to submit such affidavit shall be prima facie evidence that such bottled soft drink is not exempt. All bottled soft drinks which are not so registered and do not have affixed thereto the proper stamps or crowns shall be subject to confiscation. The Secretary or his duly authorized representative may at any time check the formulas or the manufacturing of such bottled soft drinks for which exemption is claimed under this section and in addition thereto, the Secretary or his duly authorized representative may at any time take samples of any product for which exemption has been claimed, from any and all persons offering such product for sale for the purpose of ascertaining by analysis the contents thereof. The sample shall be clearly marked for identification and such sample may be turned over to any registered chemist designated by the Secretary for the purpose of analysis. If such investigation establishes that such bottled soft drink contains less than thirty five percent (35%) by volume of natural fruit juice, natural vegetable juice or natural liquid milk, or if any person engaged in selling, manufacturing, purchasing, consigning, using, shipping or distributing for the purpose of sale within this State who has applied for an exemption hereunder fails or refuses to allow the Secretary or his duly authorized representative to check the formulas or inspect the manufacturing of such bottled soft drinks, the excise tax imposed by this Article shall apply to all sales of such products and all such products offered for sale and not properly stamped shall be subject to confiscation until such person permits the Secretary to examine the formulas or inspect the manufacturing of such bottled soft drinks. The Secretary shall determine whether a bottled soft drink or a juice concentrate for which an application for registration is filed meets the criteria for exemption. To make the determination, the Secretary or a representative of the Secretary may require the person who filed the registration application for the item or anyone who sells the item in this State to provide a sample of the item and may have the sample analyzed by a chemist to verify the accuracy of the submitted formula.~~

~~(c) No Disclosure. — Except as required by law or allowed under this subsection, in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Secretary or any deputy, agent, clerk or other officer or employee or any other person acting in a confidential relationship with an agent or employee of the Secretary to divulge or make known in any manner any formula or any particulars of any may not disclose part or all of the formula of an item pertaining to any drink hereinabove referred to. for which an application for registration is filed. However, such prohibition shall not be construed to prohibit the publication of whether or not such bottled soft drinks contain thirty five percent (35%) or more of natural fruit or vegetable juice or thirty five percent (35%) or more of natural liquid milk, nor shall it be construed to prohibit the inspection by the Attorney General or other legal~~

~~representative of the State of the formula of any taxpayer who shall bring action to set aside or review the tax base thereon or against whom an action or proceeding has been instituted to recover any tax imposed by this Article. The Secretary may disclose whether an item meets the exemption criteria and the Attorney General or other legal representative of the State may examine the formula for an item if the grant or denial of an exemption for the item is challenged.~~

~~(d) Effect. – Where any product for which exemption is claimed under this section is found to contain less than thirty five percent (35%) by volume of natural fruit juice, natural vegetable juice, or natural liquid milk, the excise tax imposed by this Article shall apply to all sales of such product, and all such products offered for sale and not properly stamped shall be subject to confiscation. Registration as an exempt item applies prospectively to sales of the registered bottled soft drink or registered juice concentrate made on or after the date of registration. Registration does not relieve a person of liability for taxes due on sales made before the date an item is registered.~~"

Sec. 279. G.S. 105-113.50 reads as rewritten:

"§ 105-113.50. Soft drink licenses required.

(a) ~~Distributors and Wholesale Dealers. – Distributors and wholesale dealers shall obtain for each place of business a continuing soft drink license for which a fee of twenty-five dollars (\$25.00) shall be paid. For the purpose of this section, subsection, 'place of business' means any place where a distributor makes bottled soft drinks or base products are manufactured by a distributor, or any place where unstamped bottled soft drinks, soft drink syrups and powders, base products and other items taxed under this Article are received or stored by a distributor or wholesale dealer. a distributor or a wholesale dealer receives or stores non-tax-paid bottled soft drinks or non-tax-paid base products.~~

~~(b) Out of state distributors and wholesale dealers may obtain appropriate distributors' or wholesale dealers' licenses upon compliance with the provisions of this Article and such regulations and administrative rules as may be issued by the Secretary hereunder, for which a fee of twenty five dollars (\$25.00) shall be paid for each such soft drink license.~~

~~(c) Retail Dealers. – Each retail dealer manufacturing or purchasing not previously taxed syrups, powders or base products shall secure Retail dealers shall obtain for each place of business a continuing soft drink license for which a fee of five dollars (\$5.00) shall be paid for each place of business at which such unstamped syrups, powders or base products are received or at which place such retail dealer manufactures them. paid. For the purpose of this subsection, 'place of business' means any place where a retail dealer receives non-tax-paid bottled soft drinks or non-tax-paid base products or makes bottled soft drinks or base products.~~

~~(d) Distributors, wholesale dealers and retail dealers licensed under this section shall file such reports with the Secretary as he may require not later than the fifteenth day of each month showing transactions for the preceding month.~~"

Sec. 280. G.S. 105-113.50A reads as rewritten:

"§ 105-113.50A. Local taxation.

Except as authorized by G.S. 105-79, ~~no county, city or town shall levy any 105-102.5(e), a county or city may not levy a privilege license tax upon the business of bottling, manufacturing, producing, purchasing, selling at wholesale or retail, jobbing, consigning, using, shipping-shipping, or distributing for the purpose of sale within this State bottled soft drinks in bottles or other closed containers. drinks or base products."~~

Sec. 281. G.S. 105-113.51 reads as rewritten:

"§ 105-113.51. ~~Affixing of crowns and stamps to containers; crowns and stamps not transferable.~~ Liability for and payment of excise taxes.

~~(a) Any bottled soft drink offered for sale shall within 24 hours of its manufacture or receipt in this State have affixed to it a North Carolina taxpaid stamp or a North Carolina taxpaid crown at the rate provided for in this Article, unless the tax has been or will be paid according to some other method available under the provisions of this Article.~~

~~(b) The distributor or dealer who first distributes, sells, uses, consumes or handles bottled soft drinks, syrups, powders, base products and other items subject to the soft drink excise tax is subject to the tax unless taxpaid stamps or crowns have previously been affixed. The distributor, wholesale dealer or retail dealer, or any person who is the original consignee of any bottled soft drink, soft drink syrup, powder, base product or other item subject to the soft drink excise tax manufactured or produced outside this State, or who brings such into this State, shall pay the excise tax.~~

~~(c) Taxpaid stamps shall be affixed to each individual container of soft drink syrups, powders, and base products by wholesale dealers or distributors within 48 hours after such syrups, powders, or base products are received or made by them and by retail dealers within 24 hours after such syrups, powders or base products are received by them, and in any event the containers must be stamped before such products are used in the preparation of soft drinks.~~

~~(d) The payment of the excise tax provided for in this Article shall be evidenced by the affixing of taxpaid stamps or crowns to the original containers and the stamps and crowns provided for in this Article shall not be transferable to any person other than their original purchaser.~~

~~(e) Notwithstanding any other provision of this Article, the excise tax levied upon powders, as herein defined, may be made and evidenced in accordance with rules and regulations of the Secretary.~~

(a) Primary Liability. – The distributor, wholesale dealer, or retail dealer who first distributes, sells, consumes, or otherwise handles bottled soft drinks or base products in this State is liable for the tax imposed by this Article. A distributor, wholesale dealer, or retail dealer who brings into this State a bottled soft drink or base product made outside the State is the first person to handle the bottled soft drink or base product in this State. A distributor, wholesale dealer, or retail dealer who is the original consignee of a bottled soft drink or base product that is made outside the State and is shipped into the State is the first person to handle the bottled soft drink or base product in this State.

(b) Secondary Liability. – A retail dealer who acquires non-tax-paid bottled soft drinks or non-tax-paid base products from a distributor or a wholesale dealer is liable

for any tax due on the bottled soft drinks or base products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.

(c) Monthly Report. – Except for tax on a designated sale under subsection (d), the taxes levied by this Article are payable when a report is required to be filed. A report is due on a monthly basis. A monthly report covers sales and other activities occurring in a calendar month and is due within 15 days after the end of the month covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

(d) Designation of Exempt Sale. – A distributor or a wholesale dealer who sells a bottled soft drink or a base product to a person who has notified the distributor or wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under G.S. 105-113.46(7) or (8) may, when filing a monthly report under subsection (c), designate the quantity of bottled soft drinks or base products sold to the person for resale. A distributor or wholesale dealer shall report a designated sale on a form provided by the Secretary.

A distributor or a wholesale dealer is not required to pay tax on a designated sale when filing a monthly report. The distributor or wholesale dealer shall pay the tax due on all other sales in accordance with this section. A distributor, a wholesale dealer, or a customer of a distributor or wholesale dealer may not delay payment of the tax due on a bottled soft drink or base product by failing to pay tax on a sale that is not a designated sale or by overstating the quantity of bottled soft drinks or base products that will be resold in a transaction exempt under G.S. 105-113.46(7) or (8).

A person who does not sell a bottled soft drink or base product in a transaction exempt under G.S. 105-113.46(7) or (8) after a distributor or a wholesale dealer has failed to pay the tax due on the sale of the item to the person in reliance on the person's written notification of intent is liable for the tax and any penalties and interest due on the designated sale. If the Secretary determines that a bottled soft drink or a base product reported as a designated sale is not sold as reported, the Secretary shall assess the person who notified the distributor or wholesale dealer of an intention to resell the item in an exempt transaction for the tax due on the sale and any applicable penalties and interest. A distributor or a wholesale dealer who does not pay tax on a bottled soft drink or base product in reliance on a person's written notification of intent to resell the item in an exempt transaction is not liable for any tax assessed on the item.

(e) Refund. – A distributor, a wholesale dealer, or a retail dealer who pays tax on a bottled soft drink or a base product that is exempt from the tax may obtain a refund for the amount of tax paid by filing an application for refund with the Secretary on a form provided by the Secretary. An application for a refund must be submitted within the time allowed by G.S. 105-266 or G.S. 105-266.1."

Sec. 282. G.S. 105-113.52 reads as rewritten:

"§ 105-113.52. Taxpaid stamps; rules and regulations; cancellation; discount. Tax reduction and discount.

(a) The Secretary shall make arrangements with some manufacturer to manufacture the taxpaid stamps provided for in this Article. The Secretary shall

~~prescribe the form, design, denominations and such other matters as may be necessary with respect to said stamps. The Secretary may sell such stamps directly to taxpayers and may also make arrangements for release of taxpaid stamps to taxpayers by the manufacturer. Said manufacturer shall furnish such bond as the Secretary may deem advisable, in such penalty and upon such conditions as in the opinion of the Secretary will adequately protect the State in the collection of the excise tax imposed by this Article. Such bond shall be executed by the manufacturer as principal and by an indemnity company licensed to do business under the insurance laws of this State, as surety. The costs of manufacture, transportation and distribution of said stamps shall be computed in accordance with administrative rules or regulations of the Secretary and payment thereof pursuant to such rules and regulations of the Secretary may be required in addition to the amount of taxes which said stamps evidence regardless of whether said stamps are released or distributed by the Secretary or by the manufacturer pursuant to authorization from the Secretary.~~

~~(b) Upon the sale of taxpaid stamps, the Secretary shall allow a discount of five percent (5%) of the entire amount of any sale of fifty dollars (\$50.00) or more of said stamps. On sales of stamps of less than fifty dollars (\$50.00), no discount shall be allowed. Such discount shall apply only to the tax and not the manufacturer's price or transportation or distribution costs.~~

~~(c) When stamps are attached to bottled soft drinks, or to containers of soft drink powders or base products, no cancellation or obliteration of them shall be required, but stamps affixed to containers of syrup to be used at soda fountains shall be canceled by the person affixing them by writing or stamping with ink or indelible pencil across the stamps his initials or name and the date on which the stamps were affixed. When the container to which the stamp has been affixed has been emptied, the stamp must be obliterated by making at least three incisions crisscross through the stamp with a knife or other sharp instrument.~~

~~(d) Any person who makes use of any stamp to denote the payment of the tax imposed by this Article without canceling or obliterating such stamps if required to do so by this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100.00) or be imprisoned for not more than 30 days for each offense.~~

(a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold at wholesale on or after October 1 of each year by a distributor or wholesale dealer who is liable for the tax is seventy-two cents (72¢) a gross rather than the amount stated in G.S. 105-113.45. When reporting tax due on bottled soft drinks to which this reduced rate applies, a distributor or wholesale dealer shall pay the reduced amount.

(b) Discount. – A distributor, a wholesale dealer, or a retail dealer who is liable for the excise taxes on bottled soft drinks or base products and who files a timely report under G.S. 105-113.51 may deduct from the amount due with the report a discount of four percent (4%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond. The discount does not apply to taxes paid at the rate set in subsection (a)."

Sec. 283. G.S. 105-113.53 reads as rewritten:

"§ 105-113.53. ~~Stamps not required when crowns used.~~ Bonds.

~~If a distributor of bottled soft drinks either within or without the State shall use taxpaid crowns as hereinafter provided, such distributor shall be relieved of the duty of affixing taxpaid stamps to each individual bottle. Whenever the Secretary deems it to be advantageous for the effective and efficient enforcement of this Article, he may require that such crowns be used in lieu of stamps.—~~The Secretary may require a distributor, a wholesale dealer, or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the distributor or dealer fails to pay taxes due under this Article. A bond shall be conditioned on compliance with this Article, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall proportion a bond amount to the anticipated tax liability of the distributor, wholesale dealer, or retail dealer. The Secretary shall periodically review the sufficiency of bonds required of distributors, wholesale dealers, and retail dealers and shall increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the distributor or dealer. The Secretary shall decrease the amount of a required bond when the Secretary determines that a smaller bond amount will adequately protect the State from loss."

Sec. 284. G.S. 105-113.57 reads as rewritten:

"§ 105-113.57. Records required of ingredients received.

~~Every person engaged in the business of making, mixing or compounding bottled soft drinks, soft drink syrups and powders, base products and other items taxed under this Article shall keep a distinct, legible and permanent record of all extracts, flavoring, sugar, syrup or other ingredients except water received by him that may be useful in making, mixing or compounding soft drinks, and he~~making bottled soft drinks or base products shall keep a record of the ingredients purchased to make the bottled soft drinks or base products and shall retain invoices on all such the purchases for a period of not less than three years from the date thereof. Such records shall show the quantity of such commodities received, the date of receipt thereof at least three years. The records shall show the quantity of ingredients purchased, the date received, and the name of the person from whom they were secured or received and shall be open at all times for inspection by the Secretary or his duly authorized representative.~~received. The records shall be open at all times for inspection by the Secretary or a representative of the Secretary."~~

Sec. 285. G.S. 105-113.58 reads as rewritten:

"§ 105-113.58. Records of sale-sales, inventories, and purchases to be kept.

~~Every distributor, wholesale dealer dealer, and retail dealer shall keep an accurate account of all daily sales, sales slips, bills, invoices, delivery slips, statements, bills of lading, freight bills, credit memoranda and similar documents for a period of not less than three years from the date shown thereon. All such records of the distributor's or dealer's purchases, inventories, and sales of bottled soft drinks and base products. These records shall be kept for three years and shall be open at all times for inspection by the Secretary or his duly an authorized representative.~~representative of the Secretary."

Sec. 286. G.S. 105-113.43, 105-113.48, 105-113.49, 105-113.54 through 105-113.56C, 105-113.59 through 105-113.62, 105-113.66, and 105-113.67 are repealed.

Sec. 287. The Secretary of Revenue shall redeem any unused or mutilated but identifiable tax stamps or crowns purchased pursuant to Article 2B of Chapter 105 of the General Statutes that a taxpayer presents for redemption and shall refund the face value of the stamps or crowns, less the discount allowed at the time of the purchase of the stamps or crowns by the taxpayer.

Sec. 288. The Secretary of Revenue shall review the registrations of bottled soft drinks and juice concentrates made under G.S. 105-113.47 before the effective date of this Part. The Secretary shall notify those registrants who no longer appear to meet the exemption criteria that, for the bottled soft drink or juice concentrate to continue to be exempt from the excise tax imposed by Article 2B of Chapter 105 of the General Statutes, a new registration application must be submitted. The excise tax imposed by Article 2B of Chapter 105 of the General Statutes applies to a previously registered bottled soft drink or juice concentrate unless the Secretary determines from the new application that the bottled soft drink or juice concentrate continues to meet the exemption criteria.

PART 51.—INSURANCE TAX CHANGES AND REGULATORY CHARGE

Sec. 289. Article 6 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-6-25. Insurance regulatory charge.

(a) Charge Levied. There is levied on each insurance company an annual charge to defray the cost to the Department of regulating the insurance industry and other industries and the general administrative expenses of the State incident thereto. As used in this section, the term 'insurance company' means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except that the term does not include a hospital, medical, or dental service corporation regulated under Articles 65 and 66 of this Chapter. The term 'insurance company' does not include a company regulated under Article 67 of this Chapter. The charge levied in this section is in addition to all other fees and taxes. The charge shall be at a percentage rate of the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, additional taxes imposed by G.S. 105-228.8 shall be disregarded.

(b) Rates. The rate of the charge for the 1991 taxable year shall be six and five-tenths percent (6.5%). For subsequent taxable years, the rate shall be the percentage rate established by the General Assembly. When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. The General Assembly shall set by law the percentage rate of the charge levied in this section. The percentage rate may not exceed the rate necessary to generate funds sufficient to defray the estimated cost of the

operations of the Department for each upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-third of the estimated cost of operating the Department for each upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

(c) Returns; When Payable. The charge levied on each insurance company is payable at the time the insurance company remits its premium tax. If the insurance company is required to remit installment payments of premiums tax under G.S. 105-228.5 for a taxable year, it shall also remit installment payments of the charge levied in this section for that taxable year at the same time and on the same basis as the premium tax installment payments. Each installment payment shall be equal to at least thirty-three and one-third percent (33.3%) of the insurance company's regulatory charge liability incurred in the immediately preceding taxable year.

Every insurance company shall, on or before the date the charge levied in this section is due, file a return on a form prescribed by the Commissioner. The report shall state the company's total North Carolina premiums for the taxable year and shall be accompanied by any supporting documentation that the Commissioner may by rule require.

(d) Use of Proceeds. The Department of Insurance Fund is created in the State treasury. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used only to pay the expenses of the Commissioner and the Department that are incurred in regulating the insurance industry and other industries in this State and the general administrative expenses of the State incident thereto."

Sec. 290. Notwithstanding the provisions of G.S. 58-6-25, as enacted by this act, each insurance company subject to the charge levied under G.S. 58-6-25 who must pay an installment payment of the premium tax levied under G.S. 105-228.5 and G.S. 105-228.8 for the 1991 taxable year shall pay an installment payment of the charge levied in G.S. 58-6-25 for the 1991 taxable year on or before October 15, 1991. This installment payment shall be equal to three and twenty-five hundredths percent (3.25%) of the company's premium tax liability for the immediately preceding taxable year. The balance of the charge imposed for the 1991 taxable year shall be remitted by March 15, 1992.

Sec. 291. G.S. 105-228.8(e) reads as rewritten:

"(e) This section shall not apply to special purpose obligations or assessments based on premiums imposed in connection with particular kinds of insurance, to the special purpose regulatory charge imposed under G.S. 58-6-25, or to dedicated special

purpose taxes based on premiums. For purposes of this section, seventy-five percent (75%) of the one and thirty-three hundredths percent (1.33%) tax on amounts collected on contracts of insurance applicable to fire and lightning coverage shall not be a special purpose obligation or assessment or a dedicated special purpose tax within the meaning of this subsection."

Sec. 292. G.S. 58-69-40 reads as rewritten:

"§ 58-69-40. Disposition of fees.

In the event an application for license filed hereunder is not approved, the Commissioner shall retain ten dollars (\$10.00) of the fee paid ~~to him~~ in connection with ~~said application, the application~~ and return the balance to the applicant. All fees collected by the Commissioner ~~hereunder shall be available to the Department of Insurance for paying the expense incurred in connection with the administration of this Article.~~ under this Article shall be credited to the Department of Insurance Fund created under G.S. 58-6-25."

Sec. 293. G.S. 58-70-45 reads as rewritten:

"§ 58-70-45. Disposition of permit fees.

All permit fees collected ~~hereunder under this Article~~ shall be credited to the ~~account of the Commissioner for the specific purpose of providing the personnel, equipment and supplies necessary to enforce this Article, but the State Budget Officer shall have the right to budget the revenues received in accordance with the requirements of the Commissioner for the purposes herein required, and at the end of the fiscal year, if any sum whatever shall remain to the credit of the Commissioner, derived from the sources herein referred to, the same shall revert to the general treasury of the State to be appropriated as other funds.~~ Department of Insurance Fund created under G.S. 58-6-25."

Sec. 294. G.S. 58-71-180 reads as rewritten:

"§ 58-71-180. Disposition of fees.

Fees collected by the Commissioner pursuant to this Article shall be ~~paid into the general fund of the State.~~ credited to the Department of Insurance Fund created under G.S. 58-6-25."

Sec. 295. Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-151.21. Disposition of fees.

Fees collected by the Commissioner under this Article shall be credited to the Department of Insurance Fund created under G.S. 58-6-25."

Sec. 296. The Commissioner of Insurance shall, from time to time as the balance of the Fund in G.S. 58-6-25 attains levels sufficient to carry out the purposes in G.S. 58-6-25, transfer money from the Department of Insurance Fund to the General Fund to repay the money appropriated to the Department of Insurance from the General Fund for the 1991-92 fiscal year, plus accrued interest at a rate determined by the State Treasurer from the date the money is withdrawn from the General Fund.

Sec. 297. G.S. 105-228.5 reads as rewritten:

"§ 105-228.5. Taxes measured by gross premiums.

Every insurance company and every Articles 65 and 66 of Chapter 58 corporation shall pay to the Commissioner of Insurance, at the time and rates provided in this

section, a tax measured by gross premiums from business done in this State during the preceding calendar year, or, for Articles 65 and 66 of Chapter 58 corporations, a tax measured by gross collections from membership dues, exclusive of receipts from cost plus plans, received by such corporations during the preceding calendar year.

Gross premiums from business done in this State in the case of life insurance and annuity contracts, including any supplemental contracts thereto providing for disability benefits, accidental death benefits, or other special benefits, shall for the purposes of the taxes levied in this section mean any and all premiums collected in the calendar year (other than for contracts for reinsurance) for policies the premiums on which are paid by or credited to persons, firms or corporations resident in this State, or in the case of group policies for any contracts of insurance covering persons resident within this State, with no deduction for considerations paid for annuity contracts which are subsequently returned except as below specified, and with no other deduction whatsoever except for premiums returned under one or more of the following conditions: premiums refunded on policies rescinded for fraud or other breach of contract; premiums which were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or estate; and in the case of group annuity contracts the premiums returned by reason of a change in the composition of the group covered. Said gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend or in any other manner whatsoever, except in the case of premiums waived by any of said companies pursuant to a contract for waiver of premium in case of disability.

An insurer, in computing its premium taxes, shall pay premium taxes on a premium for the purchase of annuities at the time the contract holder elects to commence annuity benefits, instead of at the time the premium is collected.

Every insurer, in computing the premium tax, shall exclude from the gross amount of premiums all premiums received on or after July 1, 1973, from policies or contracts, issued in connection with the funding of a pension, annuity or profit-sharing plan, qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the Code as defined in G.S. 105-134.1(1) and the gross amount of all such premiums shall be exempt from the tax levied by this section.

Gross premiums from business done in this State in the case of contracts for fire insurance, casualty insurance, and any other type of insurance except life and annuity contracts as above specified, including contracts of insurance required to be carried by the Workers' Compensation Act, shall for the purposes of the taxes levied in this section mean any and all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether such premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for such premiums, and with no deduction for dividends whether returned in

cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees or assessments for adjustment of policy rates or for cancellation or surrender of policies.

In determining the amount of gross premiums from business in this State all gross premiums received in this State, or credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property or risks resident or located in this State except for such premiums as are properly reported and properly allocated as being received from business done in some other nation, territory, state or states, and except for premiums from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

The tax rate to be applied to gross premiums collected on contracts applicable to liabilities under the Workers' Compensation Act shall be two and five-tenths percent (2.5%). The tax rate to be applied to gross premiums collected on annuities and all other insurance contracts issued by insurers shall be ~~one and seventy-five hundredths percent (1.75%)~~ one and eight hundred seventy-five thousandths percent (1.875%) for taxable years beginning on or after January 1, 1991, and before January 1, 1992, and one and nine-tenths percent (1.9%) for taxable years beginning on or after January 1, 1992. The tax rate to be applied to amounts collected on contracts of insurance applicable to fire and lightning coverage (except marine and automobile policies) shall be one and thirty-three hundredths percent (1.33%) in addition to the ~~one and seventy-five hundredths percent (1.75%)~~ above tax. Twenty-five percent (25%) of the net proceeds of the one and thirty-three hundredths percent (1.33%) tax on amounts collected on contracts of insurance applicable to fire and lightning coverage shall be deposited in the Rural Volunteer Fire Department Fund established in Articles 84 through 88 of Chapter 58 of the General Statutes. Effective July 1, 1988, the tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Articles 65 and 66 of Chapter 58 corporations shall be one-half of one percent (1/2 of 1%).

The taxes levied herein measured by premiums and/or membership dues shall be in lieu of all other taxes upon insurance companies except: ~~fees and licenses~~ fees, charges, and licenses under this Article, or as specified in Articles 1 through 64 of Chapter 58 of the General Statutes of North Carolina as amended; taxes imposed by Articles 84 through 88 of Chapter 58 of the General Statutes of North Carolina; taxes imposed by Article 5 of Chapter 105 of the General Statutes of North Carolina as amended; and ad valorem taxes upon real property and personal property owned in this State.

For the tax above levied as measured by gross premiums and/or gross collections from membership dues exclusive of receipts from cost plus plans the president, secretary, or other executive officer of each insurance company and Articles 65 and 66 of Chapter 58 corporation doing business in this State shall within the first 15 days of March file with the Commissioner of Insurance a full and accurate report of the total gross premiums as above defined or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. The report shall be in such form and contain such information as the

Commissioner of Insurance may specify, and the report shall be verified by the oath of the company official transmitting the same or by some principal officer at the home or head office of the company or association in this country. At the time of making such report the taxes above levied with respect to the gross premiums or the gross collections from membership dues shall be paid to the Commissioner of Insurance. The provisions above shall likewise apply as to reports and taxes for any firm, corporation, or association exchanging reciprocal or interinsurance contracts, and said reports and taxes shall be transmitted by their attorneys-in-fact.

Insurance companies and Articles 65 and 66 of Chapter 58 corporations subject to the tax imposed by this section with a premium tax liability of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least ~~twenty-seven and one-half percent (27 1/2%)~~ thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns. ~~For taxable years beginning on or after January 1, 1989, each of the three quarterly installments shall be equal to at least thirty-three and one-third percent (33 1/3%) and payment of these installments shall be made on or before April 15, June 15, and October 15 of each taxable year. The balance shall be remitted by the following March 15 in the same manner provided in this section for annual returns.~~

The Commissioner of Insurance may, by regulation, permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

If a company does not meet the installment payment requirement of this section, the Commissioner of Insurance shall assess a penalty on underpayments that is equal to the interest rate adopted by the Secretary of Revenue under G.S. 105-241.1(i). Any overpayment shall be credited to the company and applied against the taxes imposed upon the company under this Article.

The provisions as to reports and taxes as measured by gross premiums shall not apply to farmers' mutual assessment fire insurance companies or to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except members.

With respect to the taxes levied in this section on the equivalent of premiums of self-insurers under the provisions of the Workers' Compensation Act, the reports required herein shall be transmitted to and the taxes collected by the Insurance Commissioner as provided in G.S. 97-100(j)."

Sec. 298. Article 8B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-228.5A. Credit against gross premium tax for assessments paid to the Insurance Guaranty Association and the Life and Accident and Health Insurance Guaranty Association.

(a) The following definitions apply in this section:

(1) Assessment. – An assessment as described in G.S. 58-48-35 or an assessment as described in G.S. 58-62-40.

(2) Association. – The North Carolina Insurance Guaranty Association created under G.S. 58-48-25 or the Life and Accident and Health Insurance Guaranty Association created under G.S. 58-62-25.

(3) Commissioner. – Commissioner of Insurance.

(4) Member insurer. – A member insurer as defined in G.S. 58-48-20 or a member insurer as defined in G.S. 58-62-20.

(b) A member insurer who pays an assessment is allowed as a credit against the tax imposed under G.S. 105-228.5 an amount equal to twenty percent (20%) of the amount of the assessment in each of the five taxable years following the year in which the assessment was paid. In the event a member insurer ceases doing business, all assessments for which it has not taken a credit under this section may be credited against its premium tax liability for the year in which it ceases doing business. The amount of the credit allowed by this section may not exceed the member insurer's premium tax liability for the taxable year.

(c) Any sums that are acquired by refund, under either G.S. 58-48-35 or G.S. 58-62-40, from the Association by member insurers, and that have previously been offset against premium taxes as provided in subsection (b) of this section, shall be paid by the member insurers to this State in the manner required by the Commissioner. The Association shall notify the Commissioner that the refunds have been made."

Sec. 299. G.S. 58-48-75 is repealed.

PART 52.—INDIVIDUAL INCOME TAX CHANGES

Sec. 300. G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152.1 and for surviving spouses, as defined in section 2(a) of the Code:

On the North Carolina taxable income up to twenty-one thousand two hundred fifty dollars (\$21,250), six percent ~~(6%)~~; ~~and (6%)~~.

On the ~~excess amount~~ over twenty-one thousand two hundred fifty dollars ~~(\$21,250)~~, ~~(\$21,250)~~ and up to one hundred thousand dollars (\$100,000), seven percent (7%).

On the amount over one hundred thousand dollars (\$100,000), seven and seventy-five one-hundredths percent (7.75%).

(2) For heads of households, as defined in section 2(b) of the Code:

On the North Carolina taxable income up to seventeen thousand dollars (\$17,000), six percent ~~(6%)~~; ~~and (6%)~~.

On the ~~excess amount~~ over seventeen thousand dollars ~~(\$17,000),~~ ~~(\$17,000)~~ and up to eighty thousand dollars ~~(\$80,000),~~ seven percent (7%).

On the amount over eighty thousand dollars (\$80,000), seven and seventy-five one-hundredths percent (7.75%).

- (3) For unmarried individuals other than surviving spouses and heads of households:

On the North Carolina taxable income up to twelve thousand seven hundred fifty dollars (\$12,750), six percent ~~(6%),~~ and ~~(6%).~~

On the ~~excess amount~~ over twelve thousand seven hundred fifty dollars ~~(\$12,750),~~ ~~(\$12,750)~~ and up to sixty thousand dollars ~~(\$60,000),~~ seven percent (7%).

On the amount over sixty thousand dollars (\$60,000), seven and seventy-five one-hundredths percent (7.75%).

- (4) For married individuals who do not file a joint return under G.S. 105-152.1:

On the North Carolina taxable income up to ten thousand six hundred twenty-five dollars (\$10,625), six percent ~~(6%),~~ and ~~(6%).~~

On the ~~excess amount~~ over ten thousand six hundred twenty-five dollars ~~(\$10,625),~~ ~~(\$10,625)~~ and up to fifty thousand dollars ~~(\$50,000),~~ seven percent (7%).

On the amount over fifty thousand dollars (\$50,000), seven and seventy-five one-hundredths percent (7.75%)."

Sec. 301. G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation shall file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation shall at the time specified in subsection (d) of this section pay to the Department on behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed ~~an amount equal to seven percent (7%) of an estimated amount of the tax due the State.~~ The estimated amount of tax due the State shall be computed at the rates levied in G.S. 105-134.2(a)(3) on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

Sec. 302. G.S. 105-160.2 reads as rewritten:

"§ 105-160.2. Imposition of tax.

The tax imposed by this Division shall apply to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Division. The taxable income of an estate or trust shall be the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, except that the adjustments provided in G.S. 105-134.6 and G.S. 105-134.7 shall be apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax shall be computed ~~at the following percentages of~~ on the amount of the taxable income of ~~an~~ the estate or trust ~~which that~~ is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income shall be computed subject to the adjustments provided in G.S. 105-134.6 and G.S. 105-134.7. The tax on the amount computed above shall be at the rates levied in G.S. 105-134.2(a)(3). ~~shall be at six percent (6%) on the first twelve thousand seven hundred fifty dollars (\$12,750) of the amount computed above; and at seven percent (7%) of the excess of the amount computed above over twelve thousand seven hundred fifty dollars (\$12,750).~~ The tax computed under the provisions of this Division shall be paid by the fiduciary responsible for administering the estate or trust."

Sec. 303. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 1991, and before January 1, 1992, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this Part.

PART 53.—ALCOHOL TAX CHANGES

Sec. 304. G.S. 18B-804, as amended by Chapter 565 of the 1991 Session Laws, reads as rewritten:

"§ 18B-804. Alcoholic beverage pricing.

(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor sold at the uniform State price shall consist of the following components:

- (1) The distiller's ~~price;~~ price.
- (2) The freight and bailment charges of the State warehouse as determined by the ~~Commission;~~ Commission.
- (3) A markup for local boards as determined by the ~~Commission;~~ Commission.
- (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and ~~(3);~~ (3).
- (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and ~~(3);~~ (3).

- (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 ~~milliliters;~~ milliliters.
- (6a) The bailment ~~surecharge;~~ surcharge.
- (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 ~~milliliters[;]~~ milliliters.
- (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by ~~five;~~ and five.
- (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.
- (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of fifteen dollars (\$15.00) on each four liters and a proportional sum on lesser quantities.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2."

Sec. 305. Effective October 1, 1991, G.S. 18B-804(b)(9), as enacted by Chapter 565 of the 1991 Session Laws, reads as rewritten:

"(9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities."

Sec. 306. G.S. 18B-805(b) reads as rewritten:

"(b) Primary Distribution. – Before making any other distribution, a local board shall first pay the following from its gross receipts:

- (1) The board shall pay the expenses, including salaries, of operating the local ABC system.
- (2) Each month the local board shall pay to the Department of Revenue the taxes due the Department. In addition to the taxes levied under Chapter 105 of the General Statutes, the local board shall pay to the Department ~~one third~~ one-half of the mixed beverages surcharge required by G.S. 18B-804(b)(8).
- (3) Each month the local board shall pay to the Department of Human Resources ~~six and two thirds percent (62/3%)~~ five percent (5%) of the mixed beverages surcharge required by G.S. 18B-804(b)(8). The Department of Human Resources shall spend those funds for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse.
- (4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the bottle charge required by G.S. 18B-804(b)(6), to be spent by the county

commissioners for the purposes stated in subsection (h) of this section."

Sec. 307. G.S. 18B-902(d), as amended by Chapters 267 and 565 of the 1991 Session Laws, reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – ~~\$100.00.~~ \$200.00.
- (2) Off-premises malt beverage permit – ~~\$100.00.~~ \$200.00.
- (3) On-premises unfortified wine permit – ~~\$100.00.~~ \$200.00.
- (4) Off-premises unfortified wine permit – ~~\$100.00.~~ \$200.00.
- (5) On-premises fortified wine permit – ~~\$100.00.~~ \$200.00.
- (6) Off-premises fortified wine permit – ~~\$100.00.~~ \$200.00.
- (7) Brown-bagging permit – \$200.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$100.00.
- (8) Special occasion permit – \$200.00.
- (9) Limited special occasion permit – \$25.00.
- (10) Mixed beverages permit – \$750.00.
- (11) Culinary permit – \$100.00.
- (12) Unfortified winery permit – \$100.00.
- (13) Fortified winery permit – \$100.00.
- (14) Limited winery permit – \$100.00.
- (15) Brewery permit – \$100.00.
- (16) Distillery permit – \$100.00.
- (17) Fuel alcohol permit – \$10.00.
- (18) Wine importer permit – \$100.00.
- (19) Wine wholesaler permit – \$100.00.
- (20) Malt beverage importer permit – \$100.00.
- (21) Malt beverage wholesaler permit – \$100.00.
- (22) Bottler permit – \$100.00.
- (23) Salesman permit – \$25.00.
- (24) Vendor representative permit – \$25.00.
- (25) Nonresident malt beverage vendor permit – \$25.00.
- (26) Nonresident wine vendor permit – \$25.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$25.00.
- (28) Winery special event permit – \$100.00.
- (29) Guest room cabinet permit. – \$750.00."

Sec. 308. G.S. 18B-902(e) reads as rewritten:

"(e) Fee for Combined Applications. – If application is made at the same time for retail malt beverage, unfortified wine and fortified wine permits for a single business location, the total fee for those applications shall be ~~one hundred dollars (\$100.00).~~ two hundred dollars (\$200.00). If application is made at the same time for brown-bagging and special occasion permits for a single business location, the total fee for those applications shall be three hundred dollars (\$300.00). If application is made at the same time for wine and malt beverage importer permits, the total fee for those applications

shall be one hundred dollars (\$100.00). If application is made at the same time for wine and malt beverage wholesaler permits, the total fee for those applications shall be one hundred dollars (\$100.00). If application is made in the same year for vendor representative permits to represent more than one vendor, only one fee shall be paid. If application is made at the same time for nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for those applications shall be twenty-five dollars (\$25.00)."

Sec. 309. G.S. 105-113.75 reads as rewritten:

"§ 105-113.75. State beer and wine retail licenses.

A person holding any of the following retail ABC permits shall obtain a State license for the activity authorized by the permit. The annual tax for each license is as stated.

ABC Permit	Corresponding State License	Tax
On-premises malt beverage, off-premises malt beverage, or both	Retail malt beverage	\$20.00
		<u>\$100.00</u>
On-premises unfortified wine, on-premises fortified wine, or both	Retail wine: on- premises	25.00
		<u>100.00</u>
Off-premises unfortified wine, off-premises fortified wine, or both"	Retail wine: off- premises	20.00
		<u>100.00</u>

Sec. 310. G.S. 18B-1004 reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

(a) Hours. – Except as otherwise provided in this section, it shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of ~~1:00~~2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of ~~1:30~~2:30 A.M. and 7:00 A.M., in any place ~~which~~that has been issued a permit under G.S. 18B-1001.

~~(b) Daylight Saving Time. — From the first Sunday in April until the last Sunday in October, sales of alcoholic beverages may continue until 2:00 A.M. rather than 1:00 A.M., and consumption of alcoholic beverages may continue until 2:30 A.M. rather than 1:30 A.M., on any licensed premises.~~

(c) Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 1:00 P.M. on that day.

(d) Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 1:00 P.M. on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the

hours from 1:00 P.M. on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown-bagging or mixed beverages permits.

(e) This section does not prohibit at any time the wholesale delivery and sale of unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant to G.S. 18B-1001."

PART 54.—SALES TAX CHANGES

Sec. 311. G.S. 105-164.4, as amended by Chapter 598 of the 1991 Session Laws, reads as rewritten:

"§ 105-164.4. Tax imposed on retailers.

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales, ~~or gross receipts from the lease or rental of tangible personal property, as appropriate: sales or gross receipts, as appropriate.~~ The general rate of tax is four percent (4%).

- (1) ~~At the rate of three percent (3%) of~~ The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.
- (1a) ~~At the rate of two percent (2%) of~~ The rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the ~~purchaser, not to exceed three hundred dollars (\$300.00).~~ purchaser. The maximum tax is three hundred dollars (\$300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.
- (1b) ~~At the rate of two percent (2%) of~~ The rate of three percent (3%) applies to the sales price of each aircraft, boat, railway car, or locomotive sold at retail, including all accessories attached to the item when it is delivered to the ~~purchaser, not to exceed one thousand five hundred dollars (\$1,500).~~ purchaser. The maximum tax is one thousand five hundred dollars (\$1,500) per article.
- (1c) ~~At the rate of one percent (1%) of~~ The rate of one percent (1%) applies to the sales price ~~on~~ of the following ~~items:~~ articles:
 - a. Horses or mules by whomsoever sold.
 - b. Semen to be used in the artificial insemination of animals.
 - c. Sales of fuel, other than electricity or piped natural gas, to farmers to be used by them for any farm purposes other than preparing food, heating dwellings and other household purposes. The quantity of fuel purchased or used at any one time shall not in any manner be a determinative factor as to

whether any sale or use of fuel is or is not subject to the one percent (1%) rate of tax imposed herein.

- d. Sales of fuel, other than electricity or piped natural gas, to manufacturing industries and manufacturing plants for use in connection with the operation of such industries and plants other than sales of fuels to be used for residential heating purposes. The quantity of fuel purchased or used at any one time shall not in any manner be a determinative factor as to whether any sale or use of fuel is or is not subject to the ~~one percent (1%) rate of tax imposed herein.~~ rate of tax provided in this subdivision.
- e. Sales of fuel, other than electricity or piped natural gas, to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.
- f. Sales to freezer locker plants of wrapping paper, cartons and supplies consumed directly in the operation of such plant.

(1d) ~~At the rate of one percent (1%) of the sales price, subject to a maximum tax of eighty dollars (\$80.00) per article, on the following items:~~ The rate of one percent (1%) applies to the sales price of the following articles. The maximum tax is eighty dollars (\$80.00) per article.

- a. Sales of machines and machinery, whether animal or motor drawn or operated, and parts and accessories for such machines and machinery to farmers for use by them in the planting, cultivating, harvesting or curing of farm crops, and sales of machines and machinery and parts and accessories for such machines and machinery to dairy operators, poultry farmers, egg producers, and livestock farmers for use by them in the production of dairy products, poultry, eggs or livestock, except such machines, machinery, equipment, parts, and accessories that come within the provisions of G.S. 105-164.13(4c).

The term 'machines and machinery' as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in

this subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

- b. Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term 'manufacturing industries and plants' does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.
- c. Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.
- d. Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.
- e. Sales to freezer locker plants of machinery used in the direct operation of said freezer locker plant and of parts and accessories thereto.
- f. Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.
- g. Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.
- h. Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all

similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

- i. Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail.
- (2) ~~At the applicable percentage rate of~~ The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.
- (3) Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. ~~There is levied upon every such retailer a tax of three percent (3%) of the gross receipts derived~~ A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.

As used in this subdivision, the term 'persons who rent to transients' means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including 'real estate brokers' as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable.

- (4) ~~Every person, firm or corporation person engaged in the business of operating a pressing club, cleaning plant, hat blocking establishment, dry cleaning plant, laundry (including wet or damp wash laundries and businesses known as launderettes and launderalls), dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, or engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of the aforementioned these businesses, shall be considered "retailers" for the purposes of this Article.~~ is considered a retailer under this Article. There is hereby levied upon every such

~~person, firm or corporation a tax of three percent (3%) of the gross receipts derived. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. subdivision, and every person, firm or corporation subject to the provisions of this subdivision shall register and secure a license in the manner hereinafter provided in this section, and, insofar as practicable, all other provisions of this Article shall be applicable with respect to the tax herein provided for. The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers. The taxes levied in this subdivision are additional privilege or license taxes for the privilege of engaging in the occupations or businesses named herein. Any person, firm or corporation engaged in cleaning, pressing, hat blocking, laundering for, or supplying clean linen or towels or wearing apparel to, another person, firm or corporation engaged in soliciting shall not be required to pay the three percent (3%) tax on its gross receipts derived through such solicitor, if the soliciting person, firm or corporation has registered with the Department, secured the license hereinafter required and has paid the tax at the rate of three percent (3%) of the total gross receipts derived from business solicited. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services.~~

- (4a) ~~At the rate of three percent (3%) of~~ The rate of three percent (3%) applies to the gross receipts derived by a utility from sales of electricity, piped natural gas, or local telecommunications service as defined by G.S. 105-120(e). Gross receipts from sales of piped natural gas shall not include natural gas expansion surcharges imposed under G.S. 62-158. A person who operates a utility is considered a retailer under this Article.
- (4b) ~~A person who sells tangible personal property at a flea market, other than his the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on that person at the rate of three percent (3%) of the sales price of each article sold by him the retailer at the flea market. A person who leases or rents space to others at a flea market may not lease or rent this space unless the retailer requesting to rent or lease the space furnishes evidence that he has obtained shows the license or a copy of the license required by this Article. Article or other evidence of compliance. A person who leases or rents space at a flea market shall keep records of retailers to whom he has who have leased or rented space at the flea market. As used in this subdivision, the term 'flea~~

market' means a place where space is rented to a person for the purpose of selling tangible personal property.

- (4c) ~~At the~~ The rate of six and one-half percent (6 1/2%) ~~of~~ applies to the gross receipts derived from providing toll telecommunications services or private telecommunications services as defined by G.S. 105-120(e) that both originate from and terminate in the State and are not subject to the privilege tax under G.S. 105-120. Any business entity that provides ~~the service outlined above~~ these services is considered a retailer under this Article. This subdivision does not apply to telephone membership corporations as described in Chapter 117 of the General Statutes.

(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. Provided, however, that any person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property in such form as may be accurately and conveniently checked by the Secretary or his duly authorized agent. If such records are not kept separately the tax shall be paid as a retailer on the gross sales of business and the exemptions and exclusions provided by this Article shall not be allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes.

(c) Any person who engages or continues in any business for which a privilege tax is imposed by this Article shall immediately after July 1, 1979, apply for and obtain from the Secretary upon payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that the person shall pay the tax accruing to the State under this Article; the person shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and obtained the license, if the license was in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new license.

Any person who ceases to be engaged in any business for which a privilege tax is imposed by this Article, and who remains continuously out of business for a period of five years shall apply for and obtain a new license from the Secretary upon the payment of a tax of five dollars (\$5.00), and any license previously issued under this section shall be void. The burden of proof after such period shall be upon the taxpayer to show that he did engage in such business within the period, and that no new license is required.

A retailer who sells tangible personal property at a flea market shall conspicuously display his sales tax license when making sales at the flea market."

Sec. 312. G.S. 105-164.6(b) reads as rewritten:

~~"(b) There is hereby levied and there shall be collected from every person, firm, or corporation, an excise tax of three percent (3%) of the purchase price of all tangible personal property purchased or used which shall enter into or become a part of any~~

~~building or other kind of structure in this State, including all materials, supplies, fixtures and equipment of every kind and description which shall be annexed thereto or in any manner become a part thereof. The tax shall be levied against the purchaser of such property. Provided, that where the purchaser is a contractor, the contractor and owner shall be jointly and severally liable for the tax, but the liability of the owner shall be deemed satisfied if before final settlement between them the contractor furnishes to the owner an affidavit certifying that the tax has been paid. Provided further, that where the purchaser is a subcontractor, the contractor and subcontractor shall be jointly and severally liable for the tax, but the liability of the contractor shall be deemed satisfied if before final settlement between them the subcontractor furnishes to the contractor an affidavit certifying that the tax has been paid. An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on the purchase price of tangible personal property purchased inside or outside the State that becomes a part of a building or other structure in the State. The purchaser of the property is liable for the tax. If the purchaser is a contractor, the contractor and owner are jointly and severally liable for the tax; if the purchaser is a subcontractor, the subcontractor and contractor are jointly and severally liable for the tax. The liability of an owner or a contractor who did not purchase the property is satisfied if the purchaser delivers to the owner or contractor before final settlement between them an affidavit certifying that the tax has been paid."~~

Sec. 313. G.S. 105-164.10 reads as rewritten:

"§ 105-164.10. Retail bracket system.

~~For the convenience of the retailer in collecting the tax due at the rate of three percent (3%) and to facilitate the administration of this Article, every retailer engaged in or continuing within this State in a business for which a license, privilege or excise tax is required by this Article shall add to the sale price and collect from the purchaser on all taxable retail sales an amount equal to the following:~~

- ~~(1) No amount on sales of less than 10¢.~~
- ~~(2) 1¢ on sales of 10¢ and over but not in excess of 35¢.~~
- ~~(3) 2¢ on sales of 36¢ and over but not in excess of 70¢.~~
- ~~(4) 3¢ on sales of 71¢ and over but not in excess of \$1.16.~~
- ~~(5) Sales over \$1.16 straight 3% with major fractions governing.~~

~~Use of the above bracket does not relieve the retailer from the duty and liability to remit to the Secretary an amount equal to three percent (3%) of the gross receipts derived from all taxable retail sales subject to the three percent (3%) rate during the taxable period.~~

~~Whenever a sales or use tax is due at a rate of less than three percent (3%), the tax shall be computed by multiplying the sales or purchase price by the applicable rate and by rounding the result off to the nearest whole cent. The use of this method in computing the sales or use tax shall not relieve a taxpayer from the duty and liability of remitting to the Secretary an amount equal to the applicable rates times gross receipts subject to taxation at the lesser rates. under this Article, the Secretary shall prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary shall issue a separate table for each rate of tax that may apply to a sale, including the general rate established in G.S. 105-164.4,~~

preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer."

Sec. 314. G.S. 105-164.13(18) reads as rewritten:

"(18) Funeral expenses, including coffins and caskets, not to exceed one thousand five hundred dollars (\$1,500). All other funeral expenses, including gross receipts for services rendered, shall be taxable at the ~~rate of three percent (3%).~~ general rate of tax set in G.S. 105-164.4. However, 'services rendered' shall not include those services which have been taxed pursuant to G.S. 105-164.4(4), or to those services performed by any beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family or personal representative of a deceased; and 'funeral expenses' and 'services rendered' shall not include death certificates procured by or at the specific direction of the family or personal representative of a deceased. Where coffins, caskets or vaults are purchased direct and a separate charge is paid for services, the provisions of this subdivision shall apply to the total for both."

Sec. 315. G.S. 105-465 reads as rewritten:

"§ 105-465. County election as to adoption of local sales and use tax.

The board of elections of any county, upon the written request of the board of county commissioners thereof, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county, at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. No new registration of voters shall be required. All qualified voters in the county who are properly registered not later than 21 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at said election. The county board of elections shall give at least 20 days' public notice prior to the closing of the registration books for the special election.

The county board of election shall prepare ballots for the special election which shall contain the words, 'FOR the one percent (1%) local sales and use tax only on those items presently covered by the ~~three percent (3%)~~ four percent (4%) sales and use tax,' and the words, 'AGAINST the one percent (1%) local sales and use tax only on those items presently covered by the ~~three percent (3%)~~ four percent (4%) sales and use tax,' with appropriate squares so that each voter may designate his vote by his cross (X) mark.

The county board of elections shall fix the date of the special election; provided, however, that the special election shall not be held on the date of any biennial election for county officers, nor within 60 days thereof, nor within one year from the date of the last preceding special election under this section."

Sec. 316. G.S. 105-467 reads as rewritten:

"§ 105-467. Scope of sales tax.

The sales tax which may be imposed under this Article is limited to a tax at the rate of one percent (1%) of:

- (1) The sales price of those articles of tangible personal property now subject to the ~~three percent (3%)~~ general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (4b);
- (2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the ~~three percent (3%)~~ general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2);
- (3) The gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar accommodations now subject to the ~~three percent (3%)~~ general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3); and
- (4) The gross receipts derived from services rendered by laundries, dry cleaners, ~~cleaning plants and similar type and other~~ businesses now subject to the ~~three percent (3%)~~ general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).

The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through (4) of this section.

The exemptions and exclusions contained in G.S. 105-164.13 and the refund provisions contained in G.S. 105-164.14 shall apply with equal force and in like manner to the local sales and use tax authorized to be levied and imposed under this Article. A taxing county shall have no authority, with respect to the local sales and use tax imposed under this Article to change, alter, add to or delete any refund provisions contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are elsewhere provided for.

The local sales tax authorized to be imposed and levied under the provisions of this Article shall apply to such retail sales, leases, rentals, rendering of services, furnishing of rooms, lodgings or accommodations and other taxable transactions which are made, furnished or rendered by retailers whose place of business is located within the taxing county. The tax imposed shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients. For the purpose of this Article, the situs of a transaction is the location of the retailer's place of business."

Sec. 317. G.S. 105-468 reads as rewritten:

"§ 105-468. Scope of use tax.

The use tax which may be imposed under this Article shall be at the rate of one percent (1%) of the cost price of each item or article of tangible personal property when it is not sold but used, consumed or stored for use or consumption in the taxing county, except that no tax shall be imposed upon tangible personal property when the property would be taxed by the State at a rate of ~~other than three percent (3%)~~ other than the general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.

Every retailer engaged in business in this State and in the taxing county and required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%) use tax when such property is to be used, consumed or stored in the taxing county, one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary of Revenue, or to the taxing county, as appropriate, where the retailer is not required to collect the tax.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary of Revenue or to the taxing county, as appropriate, an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary of Revenue or the taxing county, as appropriate, may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

Sec. 318. G.S. 105-470, 105-485, and 105-500 and Article 41 of Chapter 105 of the General Statutes are repealed.

Sec. 319. Chapter 1096 of the 1967 Session Laws is amended as follows:

- (1) The title is amended by deleting the phrase "THREE PER CENT SALES AND USE TAX."and substituting the phrase "SALES AND USE TAX AT THE GENERAL STATE RATE OF TAX SET IN G.S. 105-164.4."
- (2) Section 4 is amended by deleting the phrase "three per cent (3%)"each time it appears and substituting the phrase "general rate of".
- (3) Section 5 is amended by deleting the phrase "of other than three percent (3%)"and substituting the phrase "other than the general rate of tax set in G.S. 105-164.4".
- (4) Section 7 is repealed.
- (5) Section 10.1(d) is amended by deleting the phrase "Items on Which the State Now Imposes a Three Percent (3%) Sales Tax."and substituting the phrase "Scope."

Sec. 320. (a) Approval under the Local Government Sales and Use Tax Act, Article 39 of Chapter 105 of the General Statutes, or under the Mecklenburg County

Sales and Use Tax Act, Chapter 1096 of the 1967 Session Laws, as amended, of one percent (1%) local sales and use taxes in addition to the three percent (3%) State sales and use taxes constitutes approval of one percent (1%) local sales and use taxes in addition to the four percent (4%) State sales and use taxes.

(b) Approval under the Supplemental Local Government Sales and Use Tax Act, Article 40 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales and use taxes in addition to the one percent (1%) local sales and use taxes and three percent (3%) State sales and use taxes constitutes approval of one-half percent (1/2%) local sales and use taxes in addition to the one percent (1%) local sales and use taxes and the four percent (4%) State sales and use taxes.

(c) Approval under the Additional Supplemental Local Government Sales and Use Tax Act, Article 42 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales and use taxes in addition to the one and one-half percent (1-1/2%) local sales and use taxes and three percent (3%) State sales and use taxes constitutes approval of one-half percent (1/2%) local sales and use taxes in addition to the one and one-half percent (1-1/2%) local sales and use taxes and the four percent (4%) State sales and use taxes.

Sec. 321. The provisions of this Part increasing the State sales and use tax from three percent (3%) to four percent (4%) do not apply to construction materials purchased to fulfill a lump sum or unit price contract entered into or awarded before the effective date of the increase or entered into or awarded pursuant to a bid made before the effective date of the increase when the construction materials would otherwise be subject to the State sales and use tax at the rate of four percent (4%).

PART 55.—HIGHWAY TAX CHANGES

Sec. 322. Division VIII of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

§ 105-164.44D. Reimbursement for sales tax exemption for purchases by the Department of Transportation.

The amount of sales and use tax revenue that is not realized by the General Fund as the result of the sales and use tax exemption in G.S. 105-164.13 for purchases by the Department of Transportation shall be transferred from the Highway Fund to the General Fund in accordance with this section. This direct transfer is made in lieu of eliminating the Department of Transportation's sales and use tax exemption to alleviate the administrative and accounting burden that would be placed on the Department of Transportation by eliminating the exemption.

For the 1991-92 fiscal year, the State Treasurer shall transfer the sum of eight million seven hundred thousand dollars (\$8,700,000) from the Highway Fund to the General Fund. The transfer shall be made on a quarterly basis by transferring one-fourth of the annual amount each quarter.

For each fiscal year following the 1991-92 fiscal year, the State Treasurer shall transfer the sum transferred the previous fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use taxes increased or decreased

during the previous fiscal year. In each fiscal year, the transfer shall be made on a quarterly basis by transferring one-fourth of the annual amount each quarter."

Sec. 323. G.S. 105-187.6, as amended by Section 4 of Chapter 193 of the 1991 Session Laws, reads as rewritten:

"§ 105-187.6. Exemptions from highway use tax.

(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of ~~resale other than lease or rental.~~ resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (4) By will or intestacy.
- (5) By a conveyance between a husband and wife or a parent and child.
- (6) By a distribution of marital property as a result of a divorce.

(b) Partial Exemptions. – Only the minimum tax imposed by this Article applies when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) ~~By a gift between a husband and wife or a parent and child.~~
- (2) ~~By will or intestacy.~~
- (3) ~~By a distribution of marital property as a result of a divorce.~~
- (4)(1) To a secured party who has a perfected security interest in the motor vehicle.
- (5)(2) To a partnership or corporation as an incident to the formation of the partnership or corporation and no gain or loss arises on the transfer under section 351 or section 721 of the Internal Revenue Code, or to a corporation by merger or consolidation in accordance with G.S. 55-11-06.
- (6) ~~To the same owner to reflect a change in the owner's name.~~

(c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars ~~(\$100.00)~~ (\$150.00) applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in another state for at least 90 days."

Sec. 324. G.S. 20-85.1(c) reads as rewritten:

~~"(c) All funds collected under this section shall be deposited in the Highway Fund. The fee collected under subsection (a) shall be credited to the Highway Fund. The fee collected under subsection (b) shall be credited to the Highway Trust Fund."~~

Sec. 325. G.S. 20-7(l) reads as rewritten:

~~"(l) Any person who except for lack of instruction in operating a motor vehicle would be qualified to obtain an operator's a drivers license under this Article may apply for obtain a temporary learner's permit, permit. A learner's permit authorizes and the Division shall issue such permit, entitling the applicant, while having such permit in his immediate possession, permit holder to drive a specified type or class of motor vehicle upon the highways for a period of 18 months. while in possession of the permit. A~~

learner's permit is valid for a period of 18 months after it is issued. ~~The fee for issuance of a temporary learner's permit shall be five dollars (\$5.00).~~ is ten dollars (\$10.00). Any such A learner's permit may be renewed, or a second learner's permit may be issued, for an additional period of 18 months. The ~~permittee~~ permit holder must, while operating a motor vehicle over the highways, be accompanied by a person who is licensed to operate the ~~class or type of motor vehicle being operated~~ driven and ~~who is seated in the seat beside the permittee.~~ permit holder.

~~The fee for the issuance of a renewal or a second temporary learner's permit shall be five dollars (\$5.00)."~~

Sec. 326. G.S. 20-11(b) reads as rewritten:

"(b) ~~The Division may grant an application for issue~~ a limited learner's permit of ~~any to a minor under the age of 16, who is at least 15 years old but is less than 16 years old and who otherwise meets the requirements of licensing under this section, when such section.~~ An application is for a limited learner's permit must be signed by both the applicant and his or her the applicant's parent or guardian or some other responsible adult with whom the applicant resides and who is approved by the Division of Motor Vehicles. ~~Division.~~ The A limited learner's permit ~~shall entitle the applicant, while having the permit in his immediate possession, authorizes the permit holder to drive a specified type or class of motor vehicle of the specified type or class upon the highways while in possession of the permit and accompanied by a parent, guardian, or other person approved by the Division,~~ Division who is licensed under this Chapter to operate a motor vehicle (of the type or class being operated by the permittee) and who is actually occupying a seat to operate the motor vehicle being driven and is seated beside the driver. The permit holder. A limited learner's permit ~~shall be~~ is valid for a period of ~~18 months and the months.~~ The fee for issuance of a limited learner's permit shall be five dollars (\$5.00). ~~is ten dollars (\$10.00).~~ Provided, however, a limited learner's permit as herein provided shall be issued only to those applicants who have reached the age of 15 years. ~~In the event a minor who has been issued holds a limited learner's permit under this subsection operates drives a motor vehicle in violation of any provision herein, law,~~ the permit shall be canceled.

~~Provided a A~~ driver who holds a limited learner's permit only shall not be deemed a male operator under age 25 for the purpose of determining the insurance premium rate for persons insured under automobile property damage and bodily injury liability insurance policies."

Sec. 327. G.S. 20-14 reads as rewritten:

"§ 20-14. Duplicate licenses.

A licensee may obtain a duplicate license, ~~upon payment of a fee of five dollars (\$5.00), if he furnishes to license by paying a fee of ten dollars (\$10.00) and giving the Division satisfactory proof that:~~ that any of the following has occurred:

- (1) ~~He~~ The license has been lost or destroyed ~~his license; or destroyed.~~
- (2) It is necessary to change the name or address on the ~~license; or license.~~
- (3) ~~He has reached the age wherein he~~ Because of the licensee's age, the licensee is entitled to a license with a different color photographic background."

Sec. 328. G.S. 20-37.7(d) reads as rewritten:

"(d) A special identification card issued under this section shall expire on the birth date of the holder in the fourth year of issuance. The fee for the issuance or reissuance of a special identification card ~~shall be five dollars (\$5.00) which shall be placed in the Highway Fund; provided that a~~ is the same as the fee set in G.S. 20-14 for issuing a duplicate license. A special identification card may be issued without fee to a resident of North Carolina who is legally blind or has attained the age of ~~70 years; provided further that the~~ 70. The fees collected for the issuance of special identification cards to persons under the age of 16 shall be placed in a reserve fund to cover the cost of the operation of the program required by this Article."

Sec. 329. G.S. 20-37.9 reads as rewritten:

"§ 20-37.9. Notification of change of address.

Whenever the holder of a special identification card issued under ~~the provisions of~~ G.S. 20-37.7 has a change in the address as shown on ~~such the~~ special identification card, he or she shall apply for reissuance of a special identification card within 60 days after the address has been changed. The fee for reissuance of ~~the a~~ special identification card ~~shall be five dollars (\$5.00). is the same as the fee set in G.S. 20-37.7 for issuing a special identification card. Provided that in those instances in which the~~ If a change of address is through the result of governmental action and there is no actual change of geographical location, no change of address on the holder of the card shall be required until the expiration thereof or reissuance is applied for by the holder thereof. is not required to change the address on the card until the Division issues the holder another card."

Sec. 330. G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section to other ~~persons, firms and corporations~~ persons for uses other than official upon prepayment of the ~~fee therefor, according to the following schedule:~~ following fees:

- | | | |
|---|-------------------|---------------|
| (1) Limited extract copy of license record,
for period up to three years | \$4.00 | <u>\$5.00</u> |
| (2) Complete extract copy of license record | 4.00 | <u>5.00</u> |
| (3) Certified true copy of complete license record | 7.00. | |

All fees received by the Division under ~~the provisions of~~ this subsection shall be ~~paid into and become a part of the 'Highway Fund.'~~ credited to the Highway Fund."

Sec. 331. G.S. 20-42(b) reads as rewritten:

"(b) The Commissioner and ~~such~~ officers of the Division as ~~he may designate~~ are hereby authorized to designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any ~~record document~~ of the Division, charging a fee of ~~four dollars (\$4.00)~~ five dollars (\$5.00) for each document ~~so certified, and every such certified.~~ A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. Provided that any copy of any record of the Division The certification fee does not apply to a document furnished to State, State officials or to county, municipal

~~and municipal, or court officials of this State for official use shall be furnished without charge. use."~~

Sec. 332. G.S. 20-73 reads as rewritten:

"§ 20-73. New owner to secure must get new certificate of title.

~~The transferee, within 20 days after the purchase of any vehicle, shall present the certificate of title endorsed and assigned as hereinbefore provided, to the Division and make application for a new certificate of title for such vehicle except as otherwise permitted in G.S. 20-75 and 20-76. Any transferee willfully failing or refusing to make application for title shall be guilty of a misdemeanor.~~

(a) Time Limit. – A person to whom a vehicle is transferred, whether by purchase or otherwise, must apply to the Division for a new certificate of title. An application for a certificate of title must be submitted within 28 days after the vehicle is transferred.

A person may apply directly for a certificate of title or may allow another person, such as the person from whom the vehicle is transferred or a person who has a lien on the vehicle, to apply for a certificate of title on that person's behalf. A person to whom a vehicle is transferred is responsible for getting a certificate of title within the time limit regardless of whether the person allowed another to apply for a certificate of title on the person's behalf.

(b) Exceptions. – This section does not apply to a dealer or an insurance company to whom a vehicle is transferred when the transfer meets the requirements of G.S. 20-75. A person who must follow the procedure in G.S. 20-76 to get a certificate of title and who applies for a title within the required 20-day time limit is considered to have complied with this section even when the Division issues a certificate of title to the person after the time limit has elapsed.

(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a certificate of title within the required time is subject to a civil penalty of ten dollars (\$10.00) and is guilty of a misdemeanor. A person who undertakes to apply for a certificate of title on behalf of another person and who fails to apply for a title within the required time is subject to a civil penalty of ten dollars (\$10.00). When a person to whom a vehicle is transferred fails to obtain a title within the required time because a person who undertook to apply for the certificate of title did not do so within the required time, the Division may impose a civil penalty only on the person who undertook to apply for the title. Civil penalties collected under this subsection shall be credited to the Highway Fund."

Sec. 333. G.S. 20-74 reads as rewritten:

"§ 20-74. ~~Penalty for failure to make application for transfer within the time specified by law. making false statement about transfer of vehicle.~~

~~It is the intent and purpose of this Article that every new owner or purchaser of a vehicle previously registered shall make application for transfer of title within 20 days after acquiring same, or see that such application is sent in by the lienholder with proper fees, and responsibility for such transfer shall rest on the purchaser. Any person, firm or corporation failing to do so shall pay a penalty of four dollars (\$4.00) in addition to the fees otherwise provided in this Article. It is further provided that any dealer or owner~~

~~who shall knowingly make any~~ A dealer or another person who, in an application required by this Division, knowingly makes a false statement in any application required by this Division as to about the date a vehicle was sold or acquired shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than 30 days. All moneys collected under this section shall go to the State Highway Fund."

Sec. 334. G.S. 20-119(b) reads as rewritten:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department a fee of ~~five dollars (\$5.00)~~ ten dollars (\$10.00) for a single trip permit ~~or twenty-five dollars (\$25.00) and fifty dollars (\$50.00)~~ for an annual permit issued for a single vehicle. Any ~~person, firm or corporation~~ person who operates more than one vehicle may ~~apply for, and the Department may issue,~~ obtain an annual permit for all oversize or overweight vehicles operated by ~~said person, firm or corporation, and said applicant shall pay to the Department~~ the person upon payment of an annual fee based on the following schedule:

No. of Vehicles	Annual Permit Rate per Vehicle	
First 50	\$25.00	<u>\$50.00</u>
51 to 100	20.00	<u>40.00</u>
101 to 150	15.00	<u>30.00</u>
Over 150	10.00	<u>20.00</u>

Any vehicle required to obtain an overweight permit shall not be charged an additional fee for oversize. Any vehicle required to obtain an oversize permit shall not be charged an additional fee for overweight. This subsection shall not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, ~~subdivisions~~ subdivisions, or municipalities, ~~provided municipalities if the vehicle is registered in the name of such governmental body.~~ the agency."

Sec. 335. G.S. 20-289(a), as amended by House Bill 904, 1991 Session, AN ACT TO REGULATE THE SALE OF MOTOR VEHICLES BY MOTOR VEHICLE DEALERS, reads as rewritten:

- "(a) The license fee for each fiscal year, or part thereof, shall be as follows:
- (1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each place of business.
 - (2) For manufacturers, ~~seventy-five dollars (\$75.00)~~, one hundred dollars (\$100.00), and for each factory branch in this State, ~~forty-five dollars (\$45.00)~~, seventy dollars (\$70.00).
 - (3) For motor vehicle sales representatives, ~~five dollars (\$5.00)~~, ten dollars (\$10.00).

- (4) For factory representatives, or distributor representatives, ~~six dollars (\$6.00)~~, ten dollars (\$10.00).
- (5) Repealed."

Sec. 336. G.S. 20-291, as amended by House Bill 904, 1991 Session, AN ACT TO REGULATE THE SALE OF MOTOR VEHICLES BY MOTOR VEHICLE DEALERS, reads as rewritten:

"§ 20-291. Representatives to carry license and display it on request; license to name employer.

Every person to whom a sales representative, factory representative, or distributor representative license is issued shall carry the license when engaged in business, and shall display it upon request. The license shall state the name of the representative's employer. If the representative changes employers, the representative shall immediately ~~mail the license to the Division, which shall endorse the change on the license without charge.~~ apply to the Division for a license that states the name of the representative's new employer. The fee for issuing a license stating the name of a new employer is one-half the fee set in G.S. 20-289 for an annual license."

Sec. 337. Notwithstanding G.S. 20-291, as amended by this act, for the period October 1, 1991, through June 30, 1992, the fee for issuing a license to a sales representative, a factory representative, or a distributor representative who has a license, has changed employers, and is therefore required to apply for a new license is five dollars (\$5.00). This section becomes effective October 1, 1991.

PART 56.—CONVEYANCE TAX CHANGES

Sec. 338. G.S. 105-228.30 reads as rewritten:

"§ 105-228.30. Imposition of excise stamp tax.

(a) There is ~~hereby~~ levied an excise tax on each deed, ~~instrument~~ instrument, or writing by which any ~~lands, tenements or other realty shall be~~ interest in real property is conveyed to another person. granted, assigned or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons. The tax imposed hereby shall be at the rate of ~~fifty cents (50¢)~~ one dollar (\$1.00) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration or value of the interest or property ~~conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale).~~ conveyed. The tax hereby imposed and levied shall be paid by the transferor ~~or transferors~~ to the register of deeds of the county ~~wherein~~ in which the real estate is situated prior to recording the instrument of conveyance; provided that, if the instrument transfers any parcel of real estate lying in two or more counties, the tax shall be paid to the county wherein the greater part of the real estate with respect to value lies. ~~Except as otherwise hereinafter provided, the proceeds of the tax herein levied shall be retained by the county and placed in its general funds.~~

(b) The register of deeds of each county shall remit the net proceeds of the tax levied by this section to the county finance officer on a monthly basis. The finance officer of each county shall distribute the tax proceeds on a monthly basis as follows: one-half of the net proceeds shall be retained by the county and placed in its general

fund and one-half of the net proceeds shall be remitted to the Department of Revenue. Of the funds remitted to it pursuant to this section, the Department of Revenue shall credit fifteen percent (15%) to the Recreation and Natural Heritage Trust Fund established under G.S. 113-77.7 and the remainder to the General Fund. As used in this subsection, the term 'net proceeds' means gross proceeds less the cost to the county of collecting and administering the tax."

Sec. 339. G.S. 113-77.9 reads as rewritten:

"§ 113-77.9. Acquisition of lands from the Recreation and Natural Heritage Trust Fund.

(a) From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, and the Commissioner of Agriculture shall propose to the Trustees lands to be acquired from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, and the Commissioner of Agriculture shall provide the Trustees with the following information:

- (1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives;
- (2) Any rare or endangered species on or near the land;
- (3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon;
- (4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature;
- (5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas;
- (6) Other sources of funds that may be available to assist in acquiring the land;
- (7) The State department or division that will be responsible for managing the land; ~~and~~
- (8) What assurances exist that the land will not be used for purposes other than those for which it is being ~~acquired~~-acquired; and
- (9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) The Trustees may authorize expenditures from the Fund to ~~acquire land~~:
acquire:

- (1) ~~That Land that~~ represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation

and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes; and purposes.~~

- (2) As Land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~ public.
- (3) Subject to the limitations of subsection (b1), land that contributes to the development of a balanced State program of historic properties.

The Trustees may designate managers or managing agencies of the lands so acquired to receive grants from the Fund's stewardship account. In authorizing expenditures from the Fund to acquire land pursuant to this Article, the Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, and the Commissioner of Agriculture in their proposals made pursuant to subsection (a), above.

(b1) The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b). No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b).

(c) The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas by the Secretary's Natural Heritage Program conducted pursuant to Chapter 113A, Article 9A, of the General Statutes.

(d) The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. State agencies with management responsibilities for lands acquired pursuant to this Article may enter into management agreements in the form of leases with counties, cities, and towns to aid in managing the lands, and such lease agreements shall be executed by the Department of Administration pursuant to G.S. 143-341.

(e) The Secretary shall maintain and annually revise a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee and to each House of the General Assembly after each revision.

(f) No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

TITLE V. - BUDGET REFORM

PART 57.—BUDGET REFORM

—LONG-TERM FISCAL NOTES

Sec. 340. Article 7A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-36.7. Long-term fiscal notes.

(a) Budget Outlook; Proposed Legislation. – Every fiscal analysis of the State budget outlook shall encompass the upcoming five-year period. Every fiscal analysis of the impact of proposed legislation on the State budget shall estimate the impact for the first five fiscal years the legislation would be in effect.

(b) Proposed State Buildings. – Upon the request of a member of the General Assembly, the Fiscal Research Division shall prepare a fiscal analysis of proposed legislation to appropriate funds for a State building. The analysis shall estimate the projected maintenance and operating costs of the building for the first 20 fiscal years after it is completed.

(c) Proposed New Programs. – Upon the request of a member of the General Assembly, the Fiscal Research Division shall prepare a fiscal analysis of proposed legislation to create a new State program. The analysis shall identify and estimate all personnel costs of the proposed new program for the first five fiscal years it will operate.

(d) Proposed Increases in Incarceration. – Every bill and resolution introduced in the General Assembly proposing any change in the law that could cause a net increase in the length of time for which persons are incarcerated or the number of persons incarcerated, whether by increasing penalties for violating existing laws, by criminalizing behavior, or by any other means, shall have attached to it at the time of its consideration by the General Assembly a fiscal note prepared by the Fiscal Research Division. The fiscal note shall be prepared in consultation with the Sentencing Policy and Advisory Commission and shall identify and estimate, for the first five fiscal years the proposed change would be in effect, all costs of the proposed net increase in incarceration, including capital outlay costs if the legislation would require increased cell space. If, after careful investigation, the Fiscal Research Division determines that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

The sponsor of each bill or resolution to which this subsection applies shall present a copy of the bill or resolution with the request for a fiscal note to the Fiscal Research Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal Research Division shall prepare the fiscal note as promptly as possible. The Fiscal Research Division shall prepare the fiscal note and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

This fiscal note shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as a fiscal note. A fiscal note attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment that proposes a change in the law that could cause a net increase in the length of time for which persons are incarcerated or the number of persons incarcerated, whether by increasing penalties for violating existing laws, by criminalizing behavior, or by any other means, the chair of the committee shall obtain from the Fiscal Research Division and attach to the amended bill or resolution a fiscal note as provided in this section."

Sec. 341. G.S. 143-3.5 reads as rewritten:

"§ 143-3.5. Coordination of statistics.

It shall be the duty of the Director through the Office of State Budget and Management to coordinate the efforts of governmental agencies in the collection, development, dissemination and analysis of official economic, demographic and social statistics pertinent to State budgeting. The ~~Division~~ Office shall

- (1) Prepare ~~and/or~~ and release the official demographic and economic estimates ~~and/or~~ and projections for the State;
- (2) Conduct special economic and demographic analyses and studies to support statewide budgeting;
- (3) Develop and coordinate cooperative arrangements with federal, State and local governmental agencies to facilitate the exchange of data to support State budgeting;
- (4) Compile, maintain, and disseminate information about State programs which involve the distribution of State aid funds to local governments including those variables used in their allocation; and,
- (5) Develop and maintain in cooperation with other State and local governmental agencies, an information system providing comparative data on resources and expenditures of local governments.

Every fiscal analysis prepared by the Director or the Office of State Budget and Management addressing the State budget outlook shall encompass the upcoming five-year period. Every fiscal analysis prepared by the Director or the Office of State Budget and Management addressing the impact of proposed legislation on the State budget shall estimate the impact for the first five fiscal years the legislation would be in effect. To minimize duplication of effort in collecting or developing new statistical series pertinent to State planning and budgeting, including contractual arrangements, State agencies must submit to the Director ~~of the Budget~~ proposed procedures and funding requirements.

This section shall not apply to the General Assembly, any of its committees and subcommittees, the Legislative Research Commission, the Legislative Services Commission, or any other committee or commission in the legislative branch."

—CLARIFY STATE COST OF LOCAL PROGRAMS

Sec. 342. G.S. 143-10.1 is repealed.

—LIMIT NUMBER OF STATE EMPLOYEES

Sec. 343. G.S. 143-10.2 reads as rewritten:

"§ 143-10.2. Limit on number of State employees.

The total number of permanent ~~State-funded~~ State-funded employees, excluding employees in the State's public school system funded by way of State aid to local public school units, shall not be increased by the end of any State fiscal year by a greater percentage than the percentage rate of the residential population growth for the State of North Carolina. The percentage rates shall be computed by the Office of State Budget and Management. The population growth shall be computed by averaging the rate of residential population growth in each of the preceding 10 fiscal years as stated in the annual estimates of residential population in North Carolina made by the United States Census Bureau. The growth rate of the number of employees shall be computed by averaging the rate of growth of State employees in each of the preceding 10 fiscal years as of July 1 of each fiscal year as stated in the State Budget."

Sec. 344. The limitation on the number of State employees contained in G.S. 143-10.2 does not apply to the Department of Transportation with respect to additional employees in administrative positions and to the Division of Highways with respect to operational and field positions when those administrative, operational, and field positions are needed to plan, design, and construct the specific projects funded by the North Carolina Highway Trust Fund. The Department shall report the number of employees hired and the number of those hired, if any, that exceeds the limitation in G.S. 143-10.2 to the Joint Legislative Highway Oversight Committee and the Joint Legislative Commission on Governmental Operations.

—MAINTENANCE RESERVE RECOMMENDATIONS

Sec. 345. The Office of State Budget and Management shall report to the 1993 General Assembly, on or before February 15, 1993, its recommendations on how to create a maintenance reserve to assure the continued availability of funds for repair, renovation, and maintenance of State buildings.

—LIMITATIONS ON BUDGET

Sec. 346. The Executive Budget Act, Article 1 of Chapter 143 of the General Statutes, is amended by adding the following new sections to read:

"§ 143-15.1. Current Operations Appropriations Act.

The General Assembly shall enact the Current Operations Appropriations Act by June 15 of odd-numbered years and by June 30 of even-numbered years in which a Current Operations Appropriations Act is enacted. The Current Operations Appropriations Act shall state the amount of General Fund appropriations availability upon which the General Fund budget is based. The statement of availability shall list separately the beginning General Fund credit balance, General Fund revenues, and any other components of the availability amount.

The General Fund operating budget appropriations, including appropriations for local tax reimbursements and local tax sharing, for the second year in a Current Operations Appropriations Act that contains a biennial budget shall not be more than two percent (2%) greater than the General Fund operating budget appropriations for the first year of the biennial budget.

"§ 143-15.2. Appropriation of General Fund credit balance.

The General Assembly shall appropriate up to one-fourth of any anticipated credit balance remaining in the General Fund at the end of each fiscal year to the Savings

Reserve Account as provided in G.S. 143-15.3. The General Assembly may appropriate that part of the anticipated credit balance not appropriated to the Savings Reserve Account only for capital improvements or other one-time expenditures.

"§ 143-15.3. Savings Reserve Account.

(a) There is established a Savings Reserve Account as a special revenue fund in the State treasury. The General Assembly shall appropriate to the Savings Reserve Account one-fourth of any anticipated credit balance remaining in the General Fund at the end of each fiscal year until the account contains funds equal to five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax reimbursements and local government tax-sharing funds. If the balance in the Savings Reserve Account falls below this level during a fiscal year, the General Assembly shall appropriate to the Savings Reserve Account for the following fiscal years up to one-fourth of any anticipated credit balance remaining in the General Fund at the end of each fiscal year until the account again equals five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax reimbursements and local government tax-sharing funds.

(b) The Director may not use funds in the Savings Reserve Account unless the use has been approved by an act of the General Assembly.

"§ 143-15.4. General Fund operating budget size limited.

(a) Size Limitation. Except as otherwise provided in this section, the General Fund operating budget each fiscal year shall not be greater than seven percent (7%) of the projected total State personal income for that fiscal year. For the purpose of this section, the General Fund operating budget includes any appropriations for local tax reimbursements and local tax-sharing, but does not include appropriations for (i) capital expenditures or (ii) one-time expenditures due to natural disasters, federal mandates, or other emergencies.

(b) Increase in Size Limitation. To the extent that any percent increase in appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii) the costs of providing health insurance for teachers and State employees, exceeds the percent increase in State personal income growth for the same period, the limitation on the size of the General Fund operating budget provided in subsection (a) of this section for that fiscal year shall be increased by the dollar amount represented by the excess percentage. For all subsequent fiscal years, the percent limitation contained in subsection (a) shall then be increased to reflect that dollar adjustment.

(c) Fiscal Reports. The Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall each submit a tentative estimate of total State personal income for the upcoming fiscal year to the General Assembly no later than February 1 of each year. The Office and the Fiscal Research Division shall each submit a final projection of total State personal income for the upcoming fiscal year to the General Assembly no later than May 1 of each year. The General Assembly shall use the lower of the two final projections to calculate the limitation on the size of the General Fund operating budget provided in this section."

—STATE GOVERNMENT PERFORMANCE AUDIT

Sec. 347. (a) The Legislative Services Commission shall contract for a performance audit of the executive branch of State government and a performance audit of the staff of the legislative branch of State government. The Legislative Services Commission shall report the results of these audits to the 1993 General Assembly on or before February 1, 1993.

The performance audit in the executive branch shall include an examination of the efficiency and effectiveness of major management policies, practices, and functions across all executive branch agencies, including the following areas:

- (1) Planning, budgeting, and program evaluation policies and practices.
- (2) Personnel systems operations and management.
- (3) State purchasing operations and management.
- (4) Information processing and telecommunications systems policy, organization, and management.
- (5) Organizational and staffing patterns, especially in terms of the ratio of managers and supervisors to nonmanagement personnel.

Performance audits in executive branch agencies may examine entire departments, agencies, or institutions, or similar programs in several departments.

(b) There is appropriated from the General Fund to the General Assembly the sum of three million dollars (\$3,000,000) for the 1991-92 fiscal year to contract for the performance audits required by this section. These funds shall not revert at the end of the 1991-92 fiscal year but shall remain available for expenditure in the 1992-93 fiscal year for the performance audits required by this section. The funds appropriated from the General Fund in this subsection are from the proceeds of the North Carolina Corporation Income Tax.

—BUDGET REFORM STUDY

Sec. 348. Joint Select Fiscal Trends and Reform Commission.

(a) There is created in the General Assembly the Joint Select Fiscal Trends and Reform Commission. The Commission shall review the long-term fiscal trends identified by the Economic Future Study Commission and to analyze the impact of these and other trends on the State budget during the 1990s. The Commission shall also continue the work of the House Special Select Subcommittee on Fiscal Reform, begun during the 1991 Session of the General Assembly, to identify the factors that have contributed to the financial problems the State has faced during the past two years and recommend measures to avoid a recurrence of those problems to the extent they are within the control of the State of North Carolina. The Commission's work shall include:

- (1) Monitoring the implementation of the State budget reform measures adopted in this act.
- (2) Analyzing options to address the effect on the State budget of federal legislative and judicial mandates.
- (3) Reviewing the condition of programs directed at ensuring an adequate work force for the 1990s.
- (4) Analyzing options to address future General Fund budget shortfalls.
- (5) Studying the feasibility of modifying the State's accounting practices to improve the State's balance sheet by treating as accrued (i) sales tax

proceeds that have been collected on behalf of the State by merchants but have not yet been remitted and (ii) other tax proceeds that have been collected on behalf of the State but have not yet been remitted.

- (6) Reviewing the fiscal relationship between the State and its local governments by examining State and local government revenue sources and the allocation of responsibility among the State and its local governments for financing and performing government services. In its work pursuant to this subdivision, the Commission shall examine:
- a. Whether local government tax sharing and local government tax reimbursements should be financed by appropriation or by earmarking.
 - b. Whether the State should provide local governments with additional revenue options.
 - c. Whether a more adequate and dependable means of financing State and local government services should be devised.
 - d. Whether State and local responsibilities for providing government services should be reallocated.
 - e. How the fiscal relationship between the State and local governments, particularly the lack of uniform tax rates that results from local option taxes, affects economic development.
 - f. The effectiveness of the Local Government Fiscal Information Act, Article 6D of Chapter 120 of the General Statutes.
 - g. How the timing of the State's budget process affects the ability of local governments to comply with the deadlines imposed in the Local Government Budget and Fiscal Control Act.

- (b) The Commission shall consist of 22 members to be appointed as follows:
- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be designated cochair.
 - (2) Three public members appointed by the President Pro Tempore of the Senate.
 - (3) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be designated cochair.
 - (4) Three public members appointed by the Speaker of the House of Representatives.

In making the appointments, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall attempt to select members who are representative of all North Carolinians, including representatives of business and industry, professionals, local governments, major political parties, educators, ethnic groups, environmental advocates, low-income citizens, and consumers.

- (c) The Commission may submit an interim report of its findings and recommendations to the 1992 Regular Session of the General Assembly by filing a

report with the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The Commission shall submit a final report of its findings and recommendations to the 1993 General Assembly on or before February 1, 1993, by filing a report with the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The Commission shall terminate upon filing its final report.

(d) Members appointed to the Commission shall serve until the Commission makes its final report. Vacancies on the Commission shall be filled by the same appointing officer who made the original appointments.

(e) The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of House and Senate supervisors of clerks. The expenses of employment of the clerical staff shall be borne by the Commission. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4.

(f) Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also General Assembly members, at the rate established in G.S. 120-3.1.
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.
- (3) All other Commission members, at the rate established in G.S. 138-5.

TITLE VI. - OTHER

PART 58.—MISCELLANEOUS APPROPRIATIONS PROVISIONS

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—APPLICATION OF TITLE

Sec. 348.1. The sections under this Part apply to Titles I, II, and III of this act.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—EFFECT OF HEADINGS

Sec. 349. The headings to the Parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—EXECUTIVE BUDGET ACT REFERENCE

Sec. 350. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—COMMITTEE REPORT

Sec. 351. The Joint Appropriations Committee House/Senate Base and Expansion Budget Report and the Joint Appropriations Committee House/Senate Base and Expansion Budget Conference Report dated July 11, 1991, which were distributed in the House and Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—MOST TEXT APPLIES ONLY TO 1991-93

Sec. 352. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1991-93 biennium, the textual provisions of Titles I, II, and III of this act shall apply only to funds appropriated for and activities occurring during the 1991-93 biennium.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—SEVERABILITY CLAUSE

Sec. 353. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Representatives Nesbitt, Diamont, Senators Basnight, Plyler

—EFFECTIVE DATE

Sec. 354. Except as otherwise provided, Titles I, II, and III of this act become effective July 1, 1991.

PART 59.—MISCELLANEOUS REVENUE PROVISIONS

—SAVINGS CLAUSE

Sec. 355. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

—DEPARTMENT OF REVENUE FUNDS

Sec. 356. To pay for the additional costs of implementing the provisions of this act in a timely manner, the Department of Revenue shall retain the sum of seven

hundred thousand dollars (\$700,000) from collections received by the Department during July 1991 under Article 5 of Chapter 105 of the General Statutes.

—EFFECTIVE DATE

Sec. 357. Titles IV, V, and VI of this act are effective as follows:

- (1) Part 46 – Internal Revenue Code Update. Part 46 of this act is effective for taxable years beginning on or after January 1, 1991.
- (2) Part 47 – Corporate Income Tax Changes. The amendment to G.S. 115C-546.1 in Part 47 of this act becomes effective October 1, 1991, and applies to remittances made on or after that date. The remainder of Part 47 of this act is effective for taxable years beginning on or after January 1, 1991. G.S. 105-130.3A, as enacted by Part 47 of this act, expires for taxable years beginning on or after January 1, 1995.
- (3) Part 48 – Cigarette Tax Changes. Part 48 of this act becomes effective August 1, 1991.
- (4) Part 49 – Other Tobacco Tax Changes. Part 49 of this act becomes effective January 1, 1992.
- (5) Part 50 – Soft Drink Tax Administrative Changes. Part 50 of this act becomes effective October 1, 1991.
- (6) Part 51 – Insurance Tax Changes and Regulatory Charge. G.S. 143-151.21, as enacted by Part 51 of this act, and the amendments to G.S. 58-69-40, 58-70-45, and 58-71-180 in Part 51 of this act, become effective July 1, 1992. The repeal of G.S. 58-48-75, as provided in Part 51 of this act, becomes effective July 1, 1991. The remainder of Part 51 of this act is effective for taxable years beginning on or after January 1, 1991.
- (7) Part 52 – Individual Income Tax Changes. Part 52 of this act is effective for taxable years beginning on or after January 1, 1991.
- (8) Part 53 – Alcohol Tax Changes. The amendment to G.S. 18B-804(b)(9) in Part 53 of this act becomes effective October 1, 1991, and applies to sales made on or after that date. The amendments to the remainder of G.S. 18B-804 and to G.S. 18B-805 in Part 53 of this act become effective August 1, 1991, and apply to sales made on or after that date. The amendments to G.S. 18B-1004 in Part 53 of this act become effective August 1, 1991. The remainder of Part 53 of this act becomes effective May 1, 1992, and applies to permits and licenses issued or renewed on or after that date.
- (9) Part 54 – Sales Tax Changes. Part 54 of this act becomes effective July 16, 1991, and applies to sales made on or after that date.
- (10) Part 55 – Highway Tax Changes. The amendment to G.S. 20-289(a) in Part 55 of this act becomes effective July 1, 1992. The amendment to G.S. 20-291 in Part 55 of this act becomes effective October 1, 1991. Except as otherwise provided in Part 55 of this act, the remainder of Part 55 of this act becomes effective August 1, 1991.

- (11) Part 56 – Conveyance Tax Changes. Part 56 of this act becomes effective August 1, 1991, and applies to transfers made on or after that date.
- (12) Part 57 – Budget Reform. G.S. 120-36.7, as enacted by Part 57 of this act, and the amendment to G.S. 143-3.5 in Part 57 of this act, are effective beginning with fiscal estimates addressing the 1992-93 fiscal year. G.S. 143-15.1, as enacted by Part 57 of this act, is effective beginning with the 1992-93 budget. G.S. 143-15.2 and G.S. 143-15.3, as enacted by Part 57 of this act, are effective beginning with the General Fund credit balance at the end of the 1992-93 fiscal year. G.S. 143-15.4, as enacted by Part 57 of this act, is effective beginning with the 1993-94 General Fund operating budget, and may be used as a guide in preparing the 1992-93 General Fund operating budget. Except as otherwise provided in Part 57 of this act, the remainder of Part 57 of this act is effective upon ratification.
- (13) Remainder of Titles IV, V, and VI. The remainder of Titles IV, V, and VI of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives