

1 **PART 2. TITLE OF ACT**

2

3 Sec. 3. This act shall be known and may be cited as "The Budget
4 Modification Act of 1994".

5

6 **PART 3. GENERAL FUND APPROPRIATIONS**

7

8 **CURRENT OPERATIONS/GENERAL FUND**

9 Sec. 4. Appropriations from the General Fund of the State for the
10 maintenance of the State departments, institutions, and agencies, for one-time
11 expenditures, and for other purposes as enumerated are made for the biennium ending
12 June 30, 1995, according to the schedule that follows. The designation "NR" placed
13 after a money amount indicates that that amount is nonrecurring money.

<u>Current Operations - General Fund</u>	<u>1993-94</u>	<u>1994-95</u>
<u>General Assembly</u>		
01. Create a Legislative Study		
on Welfare Reform \$ <u>20,000</u> NR	\$ <u>40,000</u>	NR
Total General Assembly	20,000	40,000
<u>Judicial Department</u>		
01. Structured Sentencing Act		
effective July 1, 1994—		
a. Community penalties	1,788,253	
		44,622 NR
b. Legal and administrative		
costs 186,048	1,663,626	
274,740	NR 489,011	NR
02. Reserve for "Teen Court"		
programs	75,000	
03. Reserve for court/drug		
treatment program	<u>- 800,000</u>	
Total Judicial Department	460,788	4,860,512
<u>Office of the Governor</u>		
Office of State Budget and Management		
01. Study a statewide		
Criminal Justice Information		
Network (CJIN)	<u>50,000</u> NR	<u>-</u>
Total Office of the Governor		50,000
<u>Public Education</u>		
State Aid to Local School		
Administrative Units		

1	01.	Basic Education Program		
2		a. Fund social workers,		
3		psychologists, counselors		
4		in Grades K-8	-	25,716,600
5	02.	Intervention/Prevention		
6		Grant Program	-	<u>15,000,000</u>
7	Total Public Education		-	40,716,600
8				
9	<u>Department of Justice</u>			
10	01.	Upgrade Automated Fingerprint		
11		Identification System (AFIS)	-	397,692
12			-	<u>3,074,000</u> NR
13	Total Department of Justice		-	3,471,692
14				
15	<u>Department of Human Resources</u>			
16	Office of the Secretary			
17	01.	Expand Family Preservation		
18		Services Program		500,000
19	Division of Mental Health, Developmental			
20	Disabilities, and Substance Abuse Services			
21	01.	Expand the Student Services Program		
22		of the N.C. High School Athletic		
23		Association - Coach Mentor		
24		Training	-	534,000
25	02.	Structured Sentencing Act		
26		effective July 1, 1994-		
27		To provide substance abuse treatment		
28		services to offenders under the		
29		Treatment Alternatives to Street Crime		
30		(TASC) Program-		4,620,000
31		Subtotal - Mental Health	-	<u>5,154,000</u>
32	Division of Youth Services			
33	01.	Operating funds for two additional		
34		Wilderness Camps	-	2,566,000
35	02.	Expand the Governor's One-on-One		
36		Program and increase the funding		
37		for each program	-	1,150,000
38	03.	Staff to operate 147 additional		
39		beds in existing training		
40		schools, including a special		
41		education teacher and a guidance		
42		counselor at each school	-	7,279,419
43	04.	Contract for 12 beds at county		
44		detention center	-	487,360

1	05.	Community-Based Alternatives				
2		Program -	5,000,000			
3	06.	Comprehensive study of juvenile				
4		justice system	150,000	NR		
5		Subtotal - Youth Services	<u>150,000</u>		<u>16,482,779</u>	
6	Total	Department of Human Resources			150,000	22,136,779
7						
8		<u>Department of Correction</u>				
9	01.	Structured Sentencing Act				
10		effective July 1, 1994-	3,834,092	27,346,555		
11					4,053,445	NR
12	02.	Operating costs for 208 additional				
13		beds at Piedmont, Lumberton,				
14		Pender, Wayne, and Brown Creek				
15		for a total of 1,040 additional				
16		beds -	13,466,330			
17					2,033,670	NR
18	03.	To lease jail space from				
19		local governments -	8,358,000			
20	04.	To provide for out-of-State				
21		housing of inmates -	24,972,000			
22	05.	To contract for 500 beds in				
23		private substance abuse				
24		treatment centers -	5,156,740			
25		16,260	NR			
26	06.	Use existing space more				
27		efficiently in order to house				
28		500 additional inmates -	1,639,500			
29	07.	Operating costs for a new Drug				
30		and Alcohol Recovery Treatment				
31		(DART) Center -	1,007,436			
32		-	192,564	NR		
33	08.	Reserve for the operation of				
34		a new 90-bed boot camp facility				
35		for youthful offenders -	1,124,373			
36		392,293	NR			
37	09.	Additional operating funds				
38		to bring on line the new				
39		facilities constructed with -	18,991,090			
40		\$87.5 million prison bonds -	8,235,572	NR		
41	10.	Operating costs for new				
42		facilities coming on line-				
43		Eastern Processing Center,				
44		Marion Close Custody Addition, and				

1	consolidation of five units	-	546,720	
2	-	125,932	NR	
3	11. Criminal Justice Partnership			
4	Act effective January 1, 1995-			
5	a. Grants	6,000,000		
6	b. Administration	-	500,000	
7	12. Structured Sentencing Act			
8	-adaptation of Offender Management			
9	Information System	2,200,000	NR	
10	Total Department of Correction		2,200,000	124,158,480
11				
12	<u>Department of Crime Control and Public Safety</u>			
13	01. Structured Sentencing Act			
14	effective July 1, 1994-			
15	Community Services	-	110,000	
16	02. Victims Assistance			
17	Network	-	150,000	
18	03. Additional funds to the Crime			
19	Victims Compensation Fund	800,000		
20		-	3,000,000	NR
21	Total Department of Crime Control			
22	and Public Safety		-	4,060,000
23				
24	GRAND TOTAL CURRENT OPERATIONS -			
25	GENERAL FUND - RECURRING		4,020,140	177,746,694
26	NONRECURRING		2,694,740	21,697,369
27	TOTAL	\$6,714,880	\$199,444,063	

PART 4. CAPITAL IMPROVEMENTS/GENERAL FUND

Sec. 5. Appropriations are made from the General Fund for the 1993-94 and 1994-95 fiscal years for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

<u>Capital Improvements - General Fund</u>	<u>1993-94</u>	<u>1994-95</u>
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Department of Administration

01. Construct 208 additional beds		
at Piedmont, Lumberton,		
Pender, Wayne, and Brown		
Creek for a total of 1,040		
additional prison beds	\$ 21,483,914	\$ -
02. Construct Eastern Processing		
Center. Due to subsurface soil		
conditions and wetlands that were		

1	unknown at time of original project cost		
2	estimate, may need up to \$3.0 million		
3	more to complete site development for		
4	this unit - 21,006,000		
5	03. Construct an addition at		
6	Marion Close Custody Unit - 5,358,900		
7	04. Consolidation of five prison		
8	units (GPAC Recommendations) - 10,260,500		
9	05. Construction costs of a new		
10	Drug and Alcohol Recovery		
11	Treatment (DART) Center 1,425,000 -		
12	06. To construct new 90-bed boot		
13	camp facility for youthful		
14	offenders <u>1,100,000</u> -		
15	Total Department of Administration	24,008,914	36,625,400
16			
17	<u>Department of Human Resources</u>		
18	01. To support construction of		
19	one additional Wilderness		
20	Camp 750,000 -		
21	02. To construct two 24-bed		
22	Detention Centers <u>3,200,000</u> -		
23	Total Department of Human Resources	3,950,000	-
24			
25	GRAND TOTAL CAPITAL IMPROVEMENTS -		
26	GENERAL FUND	\$ 27,958,914	\$36,625,400
27			

PART 5. PROCEDURES FOR DISBURSEMENT

30 Sec. 6. The appropriations made by the 1994 Extra Session of the 1993
 31 General Assembly for capital improvements shall be disbursed for the purposes
 32 provided by this act. Expenditure of funds shall not be made by any State department,
 33 institution, or agency, until an allotment has been approved by the Governor as Director
 34 of the Budget. The allotment shall be approved only after full compliance with the
 35 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the
 36 award of construction contracts for projects to be financed in whole or in part with self-
 37 liquidating appropriations, the Director of the Budget shall approve the elements of the
 38 method of financing of those projects including the source of funds, interest rate, and
 39 liquidation period. If the Director of the Budget approves the method of financing a
 40 project, the Director shall report that action to the Joint Legislative Commission on
 41 Governmental Operations at its next meeting.

42 Where direct capital improvement appropriations include the purpose of
 43 furnishing fixed and movable equipment for any project, those funds for equipment
 44 shall not be subject to transfer into construction accounts except as authorized by the

1 Director of the Budget. The expenditure of funds for fixed and movable equipment and
2 furnishings shall be reviewed and approved by the Director of the Budget prior to
3 commitment of funds.

4 Capital improvement projects authorized by the 1994 Extra Session of the
5 1993 General Assembly shall be completed, including fixed and movable equipment
6 and furnishings, within the limits of the amounts of the direct or self-liquidating
7 appropriations provided, except as otherwise provided in this act.

9 **PART 6. GENERAL PROVISIONS**

10
11 Requested by: Representatives Nesbitt and Diamont

12 **LIMITATIONS ON DEPARTMENTAL USE OF APPROPRIATIONS**

13 Sec. 7. (a) Notwithstanding G.S. 143-23(a1), the Director of the Budget shall not
14 approve the expenditure by a department, institution, or other spending agency of more
15 than was appropriated for any object or line item.

16 Notwithstanding G.S. 143-23(a1), funds appropriated for salaries and wages
17 shall be used only for salaries and wages or for premium pay, overtime pay, longevity,
18 unemployment compensation, workers' compensation, temporary wages, payment of
19 accumulated annual leave, certain awards to employees, tort claims, and employer's
20 security, retirement, and hospitalization payments.

21 (b) This section is effective upon ratification and remains in effect through June
22 30, 1994.

23
24 Requested by: Representatives Nesbitt and Diamont

25 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL** 26 **RECEIPTS/AUTHORIZATION FOR EXPENDITURES**

27 Sec. 8. There is appropriated out of the cash balances, federal receipts, and
28 departmental receipts available to each department, sufficient amounts to carry on
29 authorized activities included under each department's operations. All these cash
30 balances, federal receipts, and departmental receipts shall be expended and reported in
31 accordance with provisions of the Executive Budget Act, except as otherwise provided
32 by statute, and shall be expended at the level of service authorized by the General
33 Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a
34 specific purpose only, collected in a fiscal year by an institution, department, or agency
35 exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then
36 the Director of the Budget shall decrease the amount he allots to that institution,
37 department, or agency from appropriations from that Fund by the amount of the excess,
38 unless the Director of the Budget finds that the appropriations from the Fund are
39 necessary to maintain the function that generated the receipts at the level anticipated in
40 the certified Budget Codes for that Fund. Funds that become available from
41 overrealized receipts in General Fund Codes and Highway Fund Codes, other than gifts
42 and grants that are unanticipated and are for a specific purpose only, shall not be used
43 for new permanent employee positions or to raise the salary of existing employees
44 except:

- 1 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4, or 143-
2 27; or
- 3 (2) If the Director of the Budget finds that the new permanent employee
4 positions are necessary to maintain the function that generated the
5 receipts at the level anticipated in the certified budget codes for that
6 Fund. The Director of the Budget shall notify the President Pro
7 Tempore of the Senate, the Speaker of the House of Representatives,
8 the chairmen of the appropriations committees of the Senate and the
9 House of Representatives, and the Fiscal Research Division of the
10 Legislative Services Office that the Director intends to make such a
11 finding at least 10 days before making the finding. The notification
12 shall set out the reason the positions are necessary to maintain the
13 function.

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

19 The Director of the Budget shall develop necessary budget controls,
20 regulations, and systems to ensure that these funds and other State funds subject to the
21 Executive Budget Act, are not spent in a manner that would cause a deficit in
22 expenditures.

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

29
30 Requested by: Representatives Nesbitt and Diamont

31 **BUDGETING OF PILOT PROGRAMS**

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

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

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

40
41 Requested by: Representatives Nesbitt and Diamont

42 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

43 Sec. 10. All funds appropriated by this act into reserves may be expended
44 only for the purposes for which the reserves were established.

1

2 Requested by: Representatives Nesbitt and Diamont

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

4

5 Sec. 11. Each private, nonprofit entity eligible to receive State funds, either
 6 by General Assembly appropriation, or by grant, loan, or other allocation from a State
 7 agency, before funds may be disbursed to the entity, shall file with the disbursing
 8 agency a notarized copy of that entity's policy addressing conflicts of interest that may
 9 arise involving the entity's management employees and the members of its board of
 10 directors or other governing body. The policy shall address situations where any of
 11 these individuals may directly or indirectly benefit, except as the entity's employees or
 12 members of the board or other governing body, from the entity's disbursing of State
 13 funds, and shall include actions to be taken by the entity or the individual, or both, to
 14 avoid conflicts of interest and the appearance of impropriety.

14

15 Requested by: Representatives Nesbitt and Diamont

16 **BUDGET REFORM STATEMENTS**

17

18 Sec. 12. (a) The General Fund availability used in developing the budget
 19 enacted in this Act, is shown below:

19

	1993-94	1994-95 Non-	Non-
	Recurring	Recurring	Recurring

20

21

21 AVAILABILITY

22

22 Unappropriated Balance from

23

23 1993 Session

\$4.7

\$209.6

\$380.5

24

25

25 Revenue Forecast Increase

156.0

160.0

-

26

27

27 TOTAL AVAILABILITY

\$160.7

369.6

380.5

28

29

30 (b) The Unappropriated Balance from the 1993 Session stated in subsection (a)
 31 of this section is included in Total Availability as stated in Section 8(b) of Chapter 561
 32 of the 1993 Session Laws.

32

33

33 **PART 7. OFFICE OF STATE BUDGET AND MANAGEMENT**

34

35

35 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

36

36 **CRIMINAL JUSTICE INFORMATION NETWORK**

37

38 Sec. 13. (a) Of the funds appropriated in this act to the Office of State Budget
 39 and Management, the sum of fifty thousand dollars (\$50,000) for the 1993-94 fiscal
 40 year shall be used to study the development of a Criminal Justice Information Network
 41 that links together data in existing databases and networks. Any of these funds
 42 unexpended at the end of the 1993-94 fiscal year shall not revert but shall remain
 43 available to complete this study. This study shall include:

43

44 (1) An assessment of the functionality of information currently used by
 the General Court of Justice, State and local law enforcement agencies,

1 correction agencies, and State departments or agencies related to the
2 criminal justice system, and an evaluation of the need for systems
3 integration or system enhancements, in particular the need for a
4 comprehensive DWI database and for systems integration of the
5 Department of Correction's Offender Management Information
6 System;

- 7 (2) A determination of the technical feasibility of incorporating all or
8 portions of currently existing information systems and all or portions
9 of new information systems into a comprehensive statewide Criminal
10 Justice Information Network (CJIN);
- 11 (3) An evaluation of feasible CJIN designs at no fewer than three
12 alternative levels of costs (both capital and future operating), and a
13 clear description of the benefits and costs associated with each level;
- 14 (4) An estimation of a development and implementation schedule for each
15 level of costs, showing milestones to be achieved during each phase of
16 the schedule, costs to be incurred during each phase, and any benefits
17 and savings expected at intermediate stages of CJIN development and
18 implementation;
- 19 (5) An evaluation of alternative structures for CJIN management,
20 including accountability for CJIN operations, criteria for membership
21 or participation, procedures to prevent inappropriate or illegal access,
22 and steps to assure data quality and accuracy;
- 23 (6) Recommendations of measures for savings, efficiency, and
24 effectiveness that will enable the General Assembly to gauge CJIN
25 performance;
- 26 (7) Assurances that the integrated CJIN shall be consistent and compatible
27 with a comprehensive telecommunications plan as approved by the
28 Information Resource Management Commission; and
- 29 (8) A plan for a statewide integrated law enforcement communications
30 system and a study of the costs of making that system available to
31 local governments.

32 (b) There is created within the Office of State Budget and Management a
33 Criminal Justice Information Network study committee to conduct the study required
34 under this section. The study committee shall be appointed by the Governor in
35 consultation with the Lieutenant Governor, the Attorney General, and the Chief Justice
36 of the North Carolina Supreme Court. The Governor shall appoint no more than nine
37 members to the study committee, and shall make the appointments based upon the
38 appointees' knowledge, expertise, and responsibility within the criminal justice system
39 and related areas. All State and local government agencies shall cooperate fully with
40 the study committee. The study committee shall provide a monthly report on its
41 progress (i) to the Chairs of the Senate and House Appropriations Committees, (ii) to
42 the Chairs of the Senate and House Justice and Public Safety Appropriations
43 Subcommittees, and (iii) to the Information Resources Management Commission
44 established by G.S. 143B-426.21 at the regularly scheduled meetings of the

1 Commission. The study committee shall report its final findings and recommendations
2 to the General Assembly on or before February 1, 1995, and shall make an interim
3 report by May 15, 1994.

5 **PART 8.1. ADVANCE STRUCTURED SENTENCING**

7 Requested by: Representatives Nesbitt, Diamont, Gist, Holt, Barnes
8 **ADVANCE STRUCTURED SENTENCING/CRIMINAL JUSTICE**
9 **PARTNERSHIP ACT**

10 Sec. 14.1. (a) G.S. 15A-1340.10, as enacted by Section 1 of Chapter 538 of
11 the 1993 Session Laws, reads as rewritten:

12 **"§ 15A-1340.10. Applicability of structured sentencing.**

13 This Article applies to criminal offenses in North Carolina, other than impaired
14 driving under G.S. 20-138.1 that occur on or after ~~January 1, 1995.~~ July 1, 1994."

15 (b) G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of the 1993
16 Session Laws, reads as rewritten:

17 "(a1) A prisoner serving a term of life imprisonment is eligible for parole after
18 serving 25 years. This subsection applies to offenses committed on and after ~~January 1,~~
19 ~~1995.~~ July 1, 1994."

20 (c) Section 56 of Chapter 538 of the 1993 Session Laws reads as rewritten:

21 "Sec. 56. This act becomes effective ~~January 1, 1995,~~ July 1, 1994, and applies only
22 to offenses occurring on or after that date. Prosecutions for, or sentences based on,
23 offenses occurring before the effective date of this act are not abated or affected by the
24 repeal or amendment in this act of any statute, and the statutes that would be applicable
25 to those prosecutions or sentences but for the provisions of this act remain applicable to
26 those prosecutions or sentences."

27 (d) Section 1359 of Chapter 539 of the 1993 Session Laws reads as rewritten:

28 "Sec. 1359. This act becomes effective ~~January 1, 1995,~~ July 1, 1994, and applies to
29 offenses occurring on or after that date. Prosecutions for offenses committed before the
30 effective date of this act are not abated or affected by this act, and the statutes that
31 would be applicable but for this act remain applicable to those prosecutions."

32 (e) Section 2 of Chapter 534 of the 1993 Session Laws reads as rewritten:

33 "Sec. 2. This act becomes effective January 1, 1994. Grants administered under this
34 act shall become effective ~~July~~ January 1, 1995. The Department of Correction may use
35 funds available to support the administration of the State-County Criminal Justice
36 Partnership program effective January 1, 1994."

38 **PART 9. DEPARTMENT OF CORRECTION**

40 Requested by: Representatives Gist and Holt

41 **OUT-OF-STATE HOUSING OF INMATES**

42 Sec. 15. (a) G.S. 148-37 reads as rewritten:

43 **"§ 148-37. Additional facilities authorized; contractual arrangements.**

1 (a) Subject to the provisions of G.S. 143-341, the State Department of Correction
2 may establish additional facilities for use by the Department, such facilities to be either
3 of a permanent type of construction or of a temporary or movable type as the
4 Department may find most advantageous to the particular needs, to the end that the
5 prisoners under its supervision may be so distributed throughout the State as to facilitate
6 individualization of treatment designed to prepare them for lawful living in the
7 community where they are most likely to reside after their release from prison. For this
8 purpose, the Department may purchase or lease sites and suitable lands adjacent thereto
9 and erect necessary buildings thereon, or purchase or lease existing facilities, all within
10 the limits of allotments as approved by the Department of Administration.

11 (b) The Secretary of Correction may contract with the proper official of the
12 United States or of any county or city of this State for the confinement of federal
13 prisoners after they have been sentenced, county, or city prisoners in facilities of the
14 State prison system or for the confinement of State prisoners in any county or any city
15 facility located in North Carolina, or any facility of the United States Bureau of Prisons,
16 when to do so would most economically and effectively promote the purposes served by
17 the Department of Correction. Any contract made under the authority of this section
18 shall be for a period of not more than two years, and shall be renewable from time to
19 time for a period not to exceed two years. Contracts for receiving federal, county and
20 city prisoners shall provide for reimbursing the State in full for all costs involved. The
21 financial provisions shall have the approval of the Department of Administration before
22 the contract is executed. Payments received under such contracts shall be deposited in
23 the State treasury for the use of the State Department of Correction. Such payments are
24 hereby appropriated to the State Department of Correction as a supplementary fund to
25 compensate for the additional care and maintenance of such prisoners as are received
26 under such contracts.

27 (c) In addition to the authority contained in subsections (a) and (b) of this
28 section, the Secretary of Correction may enter into contracts with any public entity for
29 the confinement and care of State prisoners in any out-of-state public correctional
30 facility when to do so would most economically and effectively promote the purposes
31 served by the Department of Correction. The authority contained in this subsection may
32 be used to house a maximum of 1,000 prisoners at any one time, which maximum shall
33 include those presently housed. Prisoners may be sent to out-of-state correctional
34 facilities only when there are no available facilities in this State within the State prison
35 system to appropriately house those prisoners. Any contract made under the authority
36 of this subsection shall expire not later than June 30, 1995, and shall be approved by the
37 Department of Administration before the contract is executed.

38 (d) Prisoners confined in out-of-state correctional facilities pursuant to subsection
39 (c) of this section shall remain subject to the rules adopted for the conduct of persons
40 committed to the State prison system. The rules regarding good time and gain time,
41 discipline, classification, extension of the limits of confinement, transfers, housing
42 arrangements, and eligibility for parole shall apply to inmates housed in those out-of-
43 state correctional facilities. The operators of those out-of-state correctional facilities
44 may promulgate any other rules as may be necessary for the operation of those facilities

1 with the written approval of the Secretary of Correction. Custodial officials employed
2 by an out-of-state correctional facility are agents of the Secretary of Correction and may
3 use authorized force procedures to defend themselves, to enforce the observance of
4 discipline in compliance with correctional facility rules, to secure the person of a
5 prisoner, and to prevent escape. Prisoners confined to out-of-state correctional facilities
6 may be required to perform reasonable work assignments within those facilities."

7 (b) Subsection (a) of this section is effective upon ratification and expires on
8 June 30, 1995.

9
10 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

11 **DEPARTMENT OF CORRECTION LIMITATION ON CONTRACTING FOR**
12 **IN-STATE HOUSING OF INMATES**

13 Sec. 16. The Department of Correction shall not contract to house in non-
14 State-owned facilities within the State more than a total of 1500 inmates at any one
15 time, excluding any beds in private substance abuse treatment centers authorized by the
16 General Assembly. Any number of inmates exceeding 500 will reduce from the 1000
17 out-of-State prisoners authorized in G.S. 148-37(c).

18
19 Requested by: Representatives Nesbitt, Diamont, Mavretic

20 **DEPARTMENT OF CORRECTION STUDY OF HOUSING OF CERTAIN**
21 **FELONS OUTSIDE THE STATE OF NORTH CAROLINA**

22 Sec. 17. The Department of Correction shall study the issue of private, out-
23 of-country placement of felons of 16 years of age or older who are sentenced to prison
24 for 10 or more years in correctional facilities that equal or exceed the standards for adult
25 correctional institutions of the American Correctional Association for construction and
26 habitation and are:

- 27 (1) Operated by any governmental unit within any U.S. state, the District
28 of Columbia, the Commonwealth of Puerto Rico, or any territory or
29 possession of the United States; or
30 (2) a. Operated by any corporation or other business entity organized
31 under the laws of any U.S. state, the District of Columbia, the
32 Commonwealth of Puerto Rico, or any territory or possession of the
33 United States; and
34 b. Located within the boundaries of any U.S. state, the District of
35 Columbia, the Commonwealth of Puerto Rico, any territory or
36 possession of the United States, or any nation that is a signatory
37 of the North American Free Trade Agreement (NAFTA), as
38 approved by the United States in Pub. L. No. 103-182, 107 Stat.
39 2057 (1993).

40 The Department shall report the results of this study to the 1993 General
41 Assembly, Regular Session 1994.

42
43 Requested by: Representative Ellis

1 **LRC STUDY PLACEMENT OF FELONS 16 YEARS OF AGE OR OLDER IN**
2 **PRIVATE CORRECTIONAL FACILITIES**

3 Sec. 17.1. The Legislative Research Commission may study whether felons
4 16 years of age or older who are sentenced to State prison may be housed in private
5 correctional facilities that equal or exceed the standards for adult correctional
6 institutions of the American Correctional Association for construction and habitation.
7 The report shall be made to the 1993 General Assembly, Regular Session 1994.
8

9 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

10 **GOVERNOR TO SET PRISON POPULATION CAP**

11 Sec. 18. (a) G.S. 148-4.1 reads as rewritten:

12 **"§ 148-4.1. Release of inmates.**

13 (a) Whenever the Secretary of Correction determines from data compiled by the
14 Department of Correction that it is necessary to reduce the prison population to a more
15 manageable level, he shall direct the Parole Commission to release on parole over a
16 reasonable period of time a number of prisoners sufficient to that purpose.

17 (b) Except as provided in subsection (c) and (e), only inmates who are otherwise
18 eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of
19 this Chapter may be released under this section.

20 (c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible
21 for early parole under this section nine months prior to the discharge date otherwise
22 applicable, and six months prior to the date of automatic 90-day parole authorized by
23 G.S. 15A-1380.2.

24 (c1) For purposes of this section only, 'prison capacity' means the number of
25 prisoners housed in facilities located in North Carolina and owned or operated by the
26 State of North Carolina, as set by the Governor. In setting the prison capacity for
27 purposes of this section, the Governor shall consider the number of beds available and
28 shall make a finding that the number set would not jeopardize the State's ability to
29 perform its obligations under the law. In no event shall the number set by the Governor
30 under this subsection exceed 23,500.

31 (d) If the number of prisoners housed in facilities located in North Carolina and
32 owned or operated by the State of North Carolina for the Division of Prisons exceeds
33 ninety-eight percent (98%) of 21,400-prison capacity for 15 consecutive days, the
34 Secretary of Correction shall notify the Governor and the Chairman of the Parole
35 Commission of this fact. Upon receipt of this notification, the Parole Commission shall
36 within 90 days release on parole a number of inmates sufficient to reduce the prison
37 population to ninety-seven percent (97%) of 21,400-prison capacity.

38 From the date of the notification until the prison population has been reduced to
39 ninety-seven percent (97%) of 21,400-prison capacity, the Secretary may not accept
40 any inmates ordered transferred from local confinement facilities to the State prison
41 system under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in
42 the State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
43 confinement facility from which the inmate was transferred.

1 (e) In addition to those persons otherwise eligible for parole, from the date of
2 notification in subsection (d) until the prison population has been reduced to ninety-
3 seven percent (97%) of ~~21,400, prison capacity,~~ any person imprisoned only for a
4 misdemeanor also shall be eligible for parole and immediate termination upon
5 admission, notwithstanding any other provision of law, except:

6 (1) Those persons convicted under G.S. 20-138.1 of driving while
7 impaired or any offense involving impaired driving, and

8 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
9 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
10 or of violating G.S. 130A-144(f) or G.S. 130A-145.

11 (f) In complying with the mandate of subsection (d), the Parole Commission may
12 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
13 be paroled under this section so long as the prison population does not exceed ~~21,400-~~
14 prison capacity.

15 (g) In order to meet the requirements of this section, the Parole Commission shall
16 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under
17 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or
18 under G.S. 14-17. The Parole Commission may continue to consider the suitability for
19 release of such persons in accordance with the criteria set forth in Articles 85 and 85A
20 of Chapter 15A."

21 (b) Sections 7 through 9 of Chapter 91 of the 1993 Session Laws are repealed.

22
23 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

24 **REPORT ON PLAN FOR CONTRACTING WITH PRIVATE SUBSTANCE**
25 **ABUSE TREATMENT CENTERS**

26 Sec. 19. The Department of Correction shall report to the General Assembly
27 by May 1, 1994, on its plan for the use of funds appropriated to it in this act for the
28 1994-95 fiscal year for contracts for 500 beds in private substance abuse treatment
29 centers, not to exceed 100 beds at any one center, including any recommended changes
30 in legislation necessary to authorize these contracts. The Department of Human
31 Resources shall provide any technical assistance requested by the Department of
32 Correction on the preparation of the plan.

33
34 Requested by: Representatives Nesbitt and Diamont

35 **PROBATION/PAROLE STUDY**

36 Sec. 20. The Department of Correction shall study methods for reducing the
37 paperwork required of probation and parole officers in order to allow more time for
38 those officers to supervise probationers and parolees. The Department shall report its
39 findings to the Joint Legislative Commission on Governmental Operations, to the Chairs
40 of the House and Senate Appropriations Committees, and to the Chairs of the House
41 and Senate Appropriations Subcommittees on Justice and Public Safety by May 1, 1994.

42
43 **PART 10. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**
44

1 Requested by: Representatives Gist and Holt

2 **VICTIMS ASSISTANCE NETWORK FUNDS**

3 Sec. 21. (a) Of the funds appropriated in this act to the Department of Crime
4 Control and Public Safety, the sum of one hundred fifty thousand dollars (\$150,000) for
5 the 1994-95 fiscal year shall be used to support the Victims Assistance Network. These
6 funds shall be used by the Victims Assistance Network to perform the following
7 functions under the direction of and as required by the Department of Crime Control
8 and Public Safety:

- 9 (1) Conduct surveys and gather data on crime victims and their needs;
 - 10 (2) Act as a clearinghouse for crime victims services;
 - 11 (3) Provide an automated crime victims bulletin board for subscribers;
 - 12 (4) Coordinate and support the activities of other crime victims advocacy
13 groups;
 - 14 (5) Identify training needs of crime victims services providers and
15 criminal justice personnel and coordinate training efforts for those
16 persons; and
 - 17 (6) Provide other services as identified by the Governor's Crime
18 Commission or the Department of Crime Control and Public Safety.
- 19 (b) This section becomes effective July 1, 1994.
- 20

21 **PART 11. JUDICIAL DEPARTMENT**

22
23 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

24 **TEEN COURT PROGRAM FUNDS**

25 Sec. 22. (a) Of the funds appropriated in this act to the Judicial Department, the
26 sum of seventy-five thousand dollars (\$75,000) for the 1994-95 fiscal year shall be used
27 to develop and implement "teen court" programs, which programs are to be made
28 available to all junior and senior high school students in selected judicial districts for the
29 purpose of handling problems that develop at school.

30 (b) The Administrative Office of the Courts shall report to the General Assembly
31 by January 1, 1995, on its use of these funds and on the effectiveness of the programs
32 funded.

33 (c) In addition to the reports required in subsection (d) of Section 80 of Chapter
34 561 of the 1993 Session Laws, the Administrative Office of the Courts shall make an
35 interim report by May 15, 1994, on the effectiveness of the Cumberland County "Teen
36 Court" Program established pursuant to Section 80 of Chapter 561 of the 1993 Session
37 Laws.

38

39 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

40 **RESERVE FOR COURT/DRUG TREATMENT PROGRAM**

41 Sec. 23. There is created in the Judicial Department a Reserve for
42 Court/Drug Treatment Program. Of the funds appropriated in this act to the Judicial
43 Department, the sum of eight hundred thousand dollars (\$800,000) for the 1994-95

1 fiscal year shall be held in this reserve. The funds in this reserve shall be allocated as
2 prescribed by the 1993 General Assembly, Regular Session 1994.

3
4 **PART 12. DEPARTMENT OF HUMAN RESOURCES**

5
6 Requested by: Representatives Nesbitt, Diamont, Easterling, Nye

7 **DIVISION OF YOUTH SERVICES' COMPREHENSIVE STUDY OF THE**
8 **JUVENILE JUSTICE SYSTEM**

9 Sec. 25. (a) The Department of Human Resources shall conduct a
10 comprehensive study of the Division of Youth Services' juvenile justice system in order
11 to ensure the efficacy, cost-effectiveness, and optimal utilization of the system and its
12 continuum of services.

13 This study shall include:

- 14 (1) An evaluation of the Community-Based Alternative Program;
- 15 (2) An evaluation of vocational education in the training schools;
- 16 (3) An evaluation of the alternatives to detention and to training schools;
- 17 (4) Development of a plan for an early warning system in which potential
18 youthful offenders are identified at a very early age so that intervention
19 can be made to prevent adverse outcomes; and
- 20 (5) Diagnostic assessment of all youth in training schools and detention
21 centers to determine if each youth has been properly placed. The
22 assessment criteria shall conform to standards developed by the
23 Division of Youth Services, juvenile court counselors, and mental
24 health/substance abuse services professionals.

25 (b) The Department shall complete this study by November 30, 1994, and shall
26 report its findings and recommendations to the 1995 General Assembly by March 1,
27 1995.

28 (c) Of the funds appropriated to the Department of Human Resources, Division
29 of Youth Services, in this act, the sum of one hundred fifty thousand dollars (\$150,000)
30 for the 1993-94 fiscal year shall be used to fund this study. Any of these funds that are
31 unexpended at the end of the 1993-94 fiscal year shall not revert but shall remain
32 available to complete the study required by this section.

33
34 Requested by: Representatives Nesbitt, Diamont, Nye, Easterling

35 **DIRECTOR OF JOINT SECURITY FORCE**

36 Sec. 26. The Secretary of the Department of Human Resources shall
37 designate the Director of the Juvenile Evaluation Center as the Director of the Joint
38 Security Force established in G.S. 122C-421, serving the territory of the Black
39 Mountain Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation
40 Center, all in Buncombe County, and having the power prescribed by G.S. 7A-571(4)
41 and G.S. 122C-421 outside the territory embraced by the named centers but within the
42 confines of Buncombe County.

43

1 Requested by: Representatives Nesbitt, Diamont, Nye, Easterling, Redwine, Fitch,
2 McAllister, Berry, Balmer, Creech

3 **WELFARE REFORM STUDY**

4 Sec. 27. (a) There is created the Legislative Study Commission on Welfare
5 Reform. The Commission shall consist of 14 members as follows:

- 6 (1) Five members of the House of Representatives appointed by the
7 Speaker of the House of Representatives;
- 8 (2) Two persons appointed by the Speaker of the House of
9 Representatives who are not members of the General Assembly;
- 10 (3) Five Senators appointed by the President Pro Tempore of the Senate;
11 and
- 12 (4) Two persons appointed by the President Pro Tempore of the Senate
13 who are not members of the General Assembly.

14 (b) The Speaker of the House of Representatives shall designate one
15 representative as cochair and the President Pro Tempore of the Senate shall designate
16 one Senator as cochair.

17 (c) The Commission shall study the whole issue of the need for welfare reform in
18 light of the current social crisis caused, in part, by the rapidly increasing incidence of
19 violent crimes. This study shall include:

- 20 (1) A reexamination of the whole purpose of the welfare system and an
21 identification of those disincentives to raising responsible, independent
22 participants in society that are built into the system;
- 23 (2) An analysis of the federal welfare reform proposals and of other states'
24 initiatives; and
- 25 (3) A compilation and detailed examination, including detailed fiscal
26 analysis, of proposals to reform the welfare system.

27 (d) The reexamination prescribed by subdivision (1) of this subsection shall
28 specifically include consideration of the following bills introduced in the 1993 General
29 Assembly, Extra Session 1994: House Bill 141, introduced by Representative Fitch,
30 House Bill 209, introduced by Representative McAllister, House Bill 80, introduced by
31 Representative Berry, and any other welfare reform initiatives introduced in this
32 session.

33 (e) The Commission may submit an interim report to the General Assembly
34 on or before the first day of the 1994 Regular Session of the 1993 General Assembly
35 and shall submit a final report, including a complete proposal for welfare reform, to the
36 1995 General Assembly within one week of its convening, by filing the report with the
37 Speaker of the House of Representatives and the President Pro Tempore of the Senate.
38 Upon filing its final report, the Commission shall terminate.

39 (f) The Commission, while in the discharge of official duties, may exercise
40 all the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1
41 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of
42 the cochairs. The Commission may meet in the Legislative Building or the Legislative
43 Office Building.

1 (g) Members of the Commission shall receive subsistence and travel
2 expenses at the rates set forth in G.S. 120-3.1 or G.S. 138-5, as appropriate.

3 (h) The Commission may contract for professional, clerical, or consultant
4 services as provided by G.S. 120-32.02. The Legislative Services Commission, through
5 the Legislative Administrative Officer, shall assign professional staff to assist in the
6 work of the Commission. The House of Representatives' and the Senate's Supervisors
7 of Clerks shall assign clerical staff to the Commission or committee, upon the direction
8 of the Legislative Services Commission. The expenses relating to clerical employees
9 shall be borne by the Commission.

10 (i) When a vacancy occurs in the membership of the Commission, the
11 vacancy shall be filled by the same appointing officer who made the initial appointment.

12 (j) All State departments and agencies and local governments and their
13 subdivisions shall furnish the Commission with any information in their possession or
14 available to them.

15 16 **PART 13. INTERVENTION/PREVENTION INITIATIVES**

17
18 Requested by: Representatives Barnes, Black, Diamont, Easterling, Holt, H. Hunter,
19 Nesbitt, Rogers

20 **BASIC EDUCATION PROGRAM**

21 Sec. 28. Of the funds appropriated to Aid to Local School Administrative
22 Units, the sum of twenty-five million seven hundred sixteen thousand six hundred
23 dollars (\$25,716,600) for the 1994-95 fiscal year shall be used to fund fully all the
24 school counselors, social workers, and psychologists required for kindergarten through
25 grade eight by the Basic Education Program.

26 Local boards of education are encouraged to use these positions, when
27 feasible, to implement programs funded with Intervention/Prevention Program grants.
28 These funds are appropriated to provide school systems with personnel to reduce the
29 incidence of juvenile crime and to provide services to students who are at risk of school
30 failure and their families; therefore, it is the intent of the General Assembly that the
31 Superintendent not recommend and the State Board not grant waivers pursuant to G.S.
32 115C-238.6 pertaining to the purposes for which these funds may be used.

33 34 **SCHOOL-BASED PROGRAM GRANTS**

35 Sec. 29. (a) The General Assembly finds that:

- 36 (1) Growing numbers of children live in conditions that place them at risk
37 of school failure as students;
- 38 (2) The provision of school and support services to these children and
39 their families by public and nonprofit agencies is fragmented and does
40 not prepare these children to learn effectively and have a successful
41 school experience;
- 42 (3) The lack of collaboration among schools, families, local agencies, and
43 other groups involved in family support and youth development

- 1 activities results in the inefficient and ineffective use of resources to
2 meet the needs of these children;
- 3 (4) Schools are dedicating an increasing amount of their time and
4 resources to responding to disruptive and violent behavior rather than
5 fulfilling their mission to challenge with high expectations each child
6 to learn, to achieve, and to fulfill his or her potential;
- 7 (5) The relationships between school failure, disruptive and violent
8 behavior in schools, unemployment, and criminal behavior are clear;
- 9 (6) Responding to the needs of students who are at risk of school failure
10 and providing for a safe and secure learning environment are cost-
11 effective because it enables the State to substitute preventive measures
12 for expensive crisis intervention; and
- 13 (7) Differing local needs and local resources necessitate the development
14 of locally generated, community-based plans that coordinate and
15 leverage existing resources, not the imposition of uniform and
16 inflexible, State-mandated plans;

17 therefore, of the funds appropriated to Aid to Local School Administrative Units, the
18 sum of fifteen million dollars (\$15,000,000) shall be used for the 1994-95 fiscal year to
19 implement the Intervention/Prevention Grant Program for North Carolina School
20 Children.

21 (b) Article 16 of of Chapter 115C of the General Statutes is amended by adding a
22 new Part to read:

23 **"PART 8. INTERVENTION/PREVENTION**

24 **GRANT PROGRAM FOR NORTH CAROLINA SCHOOL CHILDREN.**

25 **"§ 115C-238.40. Establishment of program; purpose.**

26 There is established the Intervention/Prevention Grant Program for North Carolina
27 School Children. The purpose of the program is to provide grants to local school
28 administrative units for locally designed innovative local programs that target juvenile
29 crime by (i) enhancing educational attainment through coordinated services to respond
30 to the needs of students who are at risk of school failure and at risk of participation in
31 juvenile crime and (ii) providing for a safe and secure learning environment.

32 **"§ 115C-238.41. Applications for grants.**

33 (a) A local school administrative unit may apply for a grant, or up to three
34 adjacent local school administrative units may apply jointly for a grant.

35 (b) In preparing grant applications, an applicant shall consult with a local task
36 force appointed by the county board of commissioners and comprised of educators,
37 parents, students, community leaders, the juvenile justice system, human services, and
38 nongovernmental agencies providing services to children. In appointing members of the
39 task force, the county board of commissioners shall attempt to include individuals who
40 are representative of the racial and socioeconomic composition of the geographic area to
41 be served by the grant. If a local school administrative unit or the geographic area
42 covered by a grant proposal is located in more than one county, the board of
43 commissioners of the counties shall jointly appoint the task force.

44 (c) The application shall include the following information:

- 1 (1) Data on the incidence of juvenile crime in the geographical area to be
2 served by the grant. Sources of data may include the chief juvenile
3 court counselor in the judicial district, the clerk of superior court, and
4 local law enforcement officials.
- 5 (2) An assessment of local resources from all sources for, and local
6 deficiencies with regard to, responding to the needs of children who
7 live in conditions that place them at risk of school failure as students.
8 This assessment shall be prepared by the local task force.
- 9 (3) A detailed plan for removing barriers to success in school that exist for
10 these children and for minimizing disruptive and violent behavior
11 among all students. This plan shall include proposed goals and
12 anticipated outcomes, prepared after consultation with the task force.
13 This plan shall provide for the establishment or expansion of programs
14 that have components based on one or more of the following models or
15 other collaborative models:
- 16 a. Family Resource Center Model. – A Family Resource Center is
17 a school-based center that coordinates the delivery of
18 comprehensive and integrated services in or near a school to
19 children from kindergarten through the eighth grade and their
20 families. Services are provided through broad-based
21 collaboration among governmental and nongovernmental
22 agencies and persons reflective of the racial and socioeconomic
23 diversity in a community. Services are designed to (i) prepare
24 children to attain academic and social success, (ii) enhance the
25 ability of families to become advocates for and supporters of
26 education for the children in their families, (iii) provide
27 parenting classes to the parents of children who are at risk of
28 school failure, and (iv) otherwise enhance the ability of families
29 to function as nurturing and effective family units.
- 30 b. S.O.S. Program or Other After School Program Model. – An
31 After School Program is a program that provides high quality,
32 educationally appropriate activities to students, especially
33 middle school-aged students, after the regular school day.
34 Local boards of education may permit teachers to adjust their
35 work schedules so they can work in the program.
- 36 The program may follow the S.O.S. Program Model, which
37 was developed by Governor Hunt. A program following the
38 S.O.S. Program Model should be targeted toward providing
39 academic support for middle school-aged students who perform
40 significantly below their age-level peers or for students with
41 learning disabilities. The program should rely heavily on
42 community volunteers to provide positive adult role models for
43 students and to help supervise the activities. The local board of
44 education may appoint school-based Neighborhood Councils to

- 1 advise it on the development of a grant proposal for a program
2 following the S.O.S. Program Model. A Neighborhood Council
3 may be either an existing community group, nonprofit
4 corporation, or other governmental or nongovernmental entity,
5 or a new entity that reflects the demographics of the community
6 being served and includes broad representation of government,
7 school, and community agencies.
- 8 c. Cities in Schools Program Model. – A Cities in Schools
9 Program is a community partnership among public agencies,
10 private nonprofit agencies, volunteer organizations, and local
11 businesses that delivers services to students who are at risk of
12 dropping out of school or who display discipline problems.
13 Services offered are based on an assessment of local needs and
14 resources.
- 15 d. Alternative Learning Program Model. – An Alternative
16 Learning Program is a program that provides individualized
17 programs outside of a standard classroom setting in a caring
18 atmosphere in which students learn the skills necessary to
19 redirect their lives and return to a standard classroom setting.
20 The program should maintain State standards and may include
21 smaller classes and lower student/teacher ratios, school-to-work
22 transition activities, modification of curriculum and instruction
23 to meet individual needs, flexible scheduling, and necessary
24 academic, vocational, and support services for students and
25 their families. Services may also include appropriate measures
26 to correct disruptive behavior, teach responsibility, good
27 citizenship, and respect for rules and authority.
- 28 The goals of the alternative school programs should be to (i)
29 reduce the school dropout rate through improved student
30 attendance, behavior, and educational achievement; and (ii)
31 increase successful school-to-work transitions for students
32 through educationally linked job internships, mentored job
33 shadowing experiences, and the development of personalized
34 education and career plans for participating students.
- 35 e. Safe Schools Program Model. – A Safe Schools Program is a
36 locally designed program for making schools safe for students
37 and school employees. The program may involve peer
38 mediation and conflict resolution activities.
- 39 (4) A statement of whether and to what extent the local board of education
40 intends to contract with local, private, nonprofit 501(c)(3) corporations
41 to staff, operate, or otherwise provide services for one or more
42 elements of the plan. Local boards are encouraged to contract for
43 services, when appropriate.

- 1 (5) A statement of (i) how the grant funds would be used to address these
2 local problems, (ii) what other resources, including Safe Schools
3 Grants, Chapter 1 funds, Chapter 2 block grant funds, dropout
4 prevention funds, Basic Education Program funds, remediation funds,
5 small school system supplemental funds, and low-wealth counties
6 supplemental funds, would be used to address the problems, and (iii)
7 how all available community resources and the components of the
8 proposed plan would be coordinated to enhance the effectiveness of
9 existing services and of services proposed in the plan.
- 10 (6) A statement of how the proposed plan would assist a local school
11 administrative unit in implementing the local school improvement
12 plan.
- 13 (7) A process for assessing on an annual basis the success of the local plan
14 in addressing problems.

15 **"§ 115C-238.42. Review of applications.**

16 (a) The Superintendent of Public Instruction shall appoint a State task force to
17 assist the Superintendent in reviewing grant applications. The State task force shall
18 include representatives of the Department of Public Instruction, the Department of
19 Human Resources, local school administrative units, educators, parents, the juvenile
20 justice system, social services, and governmental agencies providing services to
21 children, and other members the Superintendent considers appropriate. In reviewing
22 grant applications, the Superintendent and the State task force shall consider the
23 prevalence of underserved students and families in low-income neighborhoods and in
24 isolated rural areas in the area for which the grant is requested, the severity of the local
25 problems with regard to children at risk of school failure and with regard to school
26 discipline, whether the proposed program meets State standards, and the likelihood that
27 the locally designed plan will deal with the problems successfully.

28 During the review process, the Superintendent may recommend modifications in
29 grant applications to applicants.

30 (b) The Superintendent shall submit recommendations to the State Board of
31 Education on which applicants should receive grants and the amount they should
32 receive.

33 **"§ 115C-238.43. Award of grants.**

34 In selecting grant recipients, the State Board of Education shall consider (i) the
35 recommendations of the Superintendent (ii) the geographic location of the applicants
36 and (iii) the demographic profile of the applicants. The State Board shall award grants
37 to applicants that will serve areas that have a high incidence of juvenile crime and that
38 propose different approaches that can serve as models for other communities.

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

43 **"§ 115C-238.44. Requests for modifications of grants or for additional funds to**
44 **implement grants.**

1 A grant recipient may request a modification of a grant or additional funds to
2 implement a grant through the grant application process. The request shall be reviewed
3 and accepted or rejected in the same manner as a grant application.

4 **"§ 115C-238.45. Administration of the grant program.**

5 The Superintendent of Public Instruction shall administer the grant program, under
6 the direction of the State Board of Education. The Department of Public Instruction and
7 the Department of Human Resources shall provide technical assistance to grant
8 applicants and recipients.

9 **"§ 115C-238.46. Cooperation of State and local agencies.**

10 All agencies of the State and local government, including departments of social
11 services, health departments, local mental health, mental retardation, and substance
12 abuse authorities, court personnel, law enforcement agencies, The University of North
13 Carolina, the community college system, and cities and counties, shall cooperate with
14 the Department of Public Instruction, local boards of education, and local nonprofit
15 corporations that receive grants in coordinating the program at the State level and in
16 implementing the program at the local level. The Superintendent, after consultation
17 with the Secretary of Human Resources, shall develop a plan for ensuring the
18 cooperation of State agencies and local agencies, and encouraging the cooperation of
19 private entities, especially those receiving State funds, in the coordination and
20 implementation of the program.

21 **"§ 115C-238.47. Reporting requirements.**

22 The State Board of Education shall report to the General Assembly prior to June 1,
23 1994, on grant applications received prior to June 1, 1994, and prior to January 1, 1995,
24 on grant applications received prior to January 1, 1995.

25 The State Board of Education shall report to the Joint Legislative Education
26 Oversight Committee prior to January 15 of each year on (i) how the funds
27 appropriated by the General Assembly for the program are being used, (ii) additional
28 funds required to implement the program, and (iii) any necessary modifications to the
29 program."

30 (c) The Department of Public Instruction shall use funds within its budget for
31 travel and for supplies and materials for the 1993-94 fiscal year to implement subsection
32 (b) of this section of this act prior to July 1, 1994.

33 (d) Subsection (a) of this section becomes effective July 1, 1994. The remainder
34 of this section is effective upon ratification.

35
36 **COMMUNITY-BASED ALTERNATIVES FUNDS**

37 Sec. 30. (a) Of the funds appropriated to the Department of Human Resources,
38 Division of Youth Services, in this act, the sum of five million dollars (\$5,000,000) for
39 the 1994-95 fiscal year shall be used to expand Community-Based Alternatives services.
40 Of these funds, four million dollars (\$4,000,000) shall be allocated per capita among the
41 counties, based on the number of children in the county between the ages of 10 and 17,
42 and one million dollars (\$1,000,000) shall be allocated evenly among all counties.

43 To receive these funds, the county shall develop and submit to the Division of
44 Youth Services for approval a plan for the use of these additional funds. The plan shall

1 provide for the county to use funds appropriated in this section to purchase care or
2 services from local, private, nonprofit 501(c)(3) corporations and housing authorities
3 providing delinquency prevention programs or community-based services. The plan
4 shall emphasize the provision of services for children against whom a complaint of
5 delinquency has been made, regardless of whether the juvenile was diverted to a
6 community resource or adjudicated delinquent.

7 As a prerequisite for receiving these additional Community-Based
8 Alternatives funds, the county board of commissioners shall annually update the
9 membership of the existing Community-Based Alternatives Youth Services Advisory
10 Committee to ensure that appropriate membership is maintained.

11 The Community-Based Alternatives Youth Services Advisory Committee
12 shall annually review the needs of troubled youth and submit a written plan of action to
13 the county board of commissioners for approval. In those counties that have a
14 commitment rate above one person per thousand, the plan shall describe how these
15 funds will be used to reduce the county commitment rate. In those counties that have a
16 commitment rate at or less than one per thousand, the plan shall specify how the funds
17 will be used to maintain or reduce the commitment rate. The approved plan shall then
18 be submitted to the Division of Youth Services for approval.

19 (b) As vacancies occur on Community Based Alternatives Youth Services
20 Advisory Committees, or as new committees are appointed, the committee membership
21 shall be reflective of the racial and socioeconomic diversity of the community.

22 **PART 14. CAPITAL IMPROVEMENT PROVISIONS**

23
24
25 Requested by: Representatives Nesbitt and Diamont

26 **RESERVE FOR ADVANCE PLANNING**

27 Sec. 31. The Office of State Budget and Management shall report to the Joint
28 Legislative Commission on Governmental Operations and to the Fiscal Research
29 Division on how it intends to spend funds from the Reserve for Advance Planning at
30 least 45 days before it spends the funds.

31 The Office of State Budget and Management shall also report the results of
32 any project on which it uses funds from the Reserve for Advance Planning to the Joint
33 Legislative Commission on Governmental Operations and to the Fiscal Research
34 Division.

35
36 Requested by: Representatives Nesbitt and Diamont

37 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

38 Sec. 32. When each capital improvement project appropriated by the 1994
39 Extra Session of the General Assembly, other than those projects under the Board of
40 Governors of The University of North Carolina, is placed under construction contract,
41 direct appropriations shall be encumbered to include all costs for construction, design,
42 investigation, administration, movable equipment, and a reasonable contingency.
43 Unencumbered direct appropriations remaining in the project budget shall be placed in a
44 project reserve fund credited to the Office of State Budget and Management. Funds in

1 the project reserve may be used for emergency repair and renovation projects at State
2 facilities with the approval of the Director of the Budget. The project reserve fund may
3 be used, at the discretion of the Director of the Budget, to allow for award of contracts
4 where bids exceed appropriated funds, if those projects supplemented were designed
5 within the scope intended by the applicable appropriation or any authorized change in it,
6 and if, in the opinion of the Director of the Budget, all means to award contracts within
7 the appropriation were reasonably attempted. At the discretion of the Director of the
8 Budget, any balances in the project reserve fund shall revert to the original source.

9
10 Requested by: Representatives Nesbitt and Diamont

11 **PROJECT COST INCREASE**

12 Sec. 33. Upon the request of the administration of a State department or
13 institution, the Director of the Budget may, when in the Director's opinion it is in the
14 best interest of the State to do so, increase the cost of a capital improvement project.
15 Provided, however, that if the Director of the Budget increases the cost of a project, the
16 Director shall report that action to the Joint Legislative Commission on Governmental
17 Operations at its next meeting. The increase may be funded from gifts, federal or
18 private grants, special fund receipts, excess patient receipts above those budgeted at
19 University of North Carolina Hospitals at Chapel Hill, or direct capital improvement
20 appropriations to that department or institution.

21
22 Requested by: Representatives Nesbitt and Diamont

23 **NEW PROJECT AUTHORIZATION**

24 Sec. 34. Upon the request of the administration of any State department or
25 institution, the Director of the Budget may authorize the construction of a capital
26 improvement project not specifically authorized by the General Assembly if this project
27 is to be funded by gifts, federal or private grants, special fund receipts, excess patient
28 receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill,
29 or self-liquidating indebtedness. If the Director of the Budget authorizes the
30 construction of such a capital improvement project, the Director shall report that action
31 to the Joint Legislative Commission on Governmental Operations at its next meeting.

32
33 Requested by: Representatives Nesbitt and Diamont

34 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

35 Sec. 35. Funds that become available by gifts, excess patient receipts above
36 those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or
37 private grants, receipts becoming a part of special funds by act of the General
38 Assembly, or any other funds available to a State department or institution may be
39 utilized for advance planning through the working-drawing phase of capital
40 improvement projects, upon approval of the Director of the Budget. The Director of the
41 Budget may make allocations from the Advance Planning Fund for advance planning
42 through the working-drawing phase of capital improvement projects, except that this
43 revolving fund may not be utilized by the Board of Governors of The University of
44 North Carolina or the State Board of Community Colleges.

1

2 Requested by: Representatives Nesbitt and Diamont

3 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

4 Sec. 36. Except as permitted in previous sections of this act, the
5 appropriations for capital improvements made by the 1994 Extra Session of the 1993
6 General Assembly may be expended only for specific projects set out by the 1994 Extra
7 Session of 1993 the General Assembly and for no other purpose. Construction of all
8 capital improvement projects enumerated by the 1994 Extra Session of the 1993
9 General Assembly shall be commenced, or self-liquidating indebtedness with respect to
10 them shall be incurred no later than the end of the 1993-95 biennium. If construction
11 contracts on those projects have not been awarded or self-liquidating indebtedness has
12 not been incurred within that period, the direct appropriation for those projects shall
13 revert to the original source, and the self-liquidating appropriation shall lapse; except
14 that direct appropriations may be placed in a reserve fund as authorized in this act. This
15 deadline with respect to both direct and self-liquidating appropriations may be extended
16 with the approval of the Director of the Budget up to an additional 12 months if
17 circumstances and conditions warrant such extension.

18

19 Requested by: Representatives Nesbitt and Diamont

20 **CONSTRUCTION FUND LIMITATIONS**

21 Sec. 37. (a) With respect to funds appropriated in this act for construction of
22 additional prison beds at Piedmont, Lumberton, Pender, Wayne, and Brown Creek, the
23 Director of the Budget may increase or decrease the amount allocated to a particular
24 institution within the aggregate amount of construction funds available.

25 (b) With respect to funds appropriated to the Department of Administration for
26 capital improvements and to the Department of Human Resources for construction of a
27 detention center, the Office of State Construction of the Department of Administration
28 may contract for and supervise all aspects of administration, technical assistance,
29 design, construction, or demolition of facilities in order to implement the providing of
30 facilities under the provisions of this act.

31 The facilities authorized under this act shall be constructed in accordance
32 with the provisions of general law applicable to the construction of State facilities. If
33 the Secretary of Administration, after consultation with the Secretary of Correction, or
34 with the Secretary of Human Resources, as applicable, finds that the delivery of
35 facilities must be expedited for good cause, the Office of State Construction of the
36 Department of Administration shall be exempt from the following statutes and rules
37 implementing those statutes, to the extent necessary to expedite delivery: G.S. 143-
38 135.26, 143-128, 143-129, 143-131, 143-132, 143-134, 113A-1 through 113A-10,
39 113A-50 through 113A-66, 133-1.1(g), and 143-408.1 through 143-408.7.

40 Prior to exercising the exemptions allowable under this section, the Secretary
41 of Administration shall give reasonable notice in writing of the Department's intent to
42 exercise the exemptions to the Speaker of the House of Representatives, the President
43 Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations
44 Committees, the Chairs of the House and Senate Appropriations Subcommittees on

1 Justice and Public Safety, and the Fiscal Research Division. The written notice shall
2 contain at least the following information: (i) the specific statutory requirement or
3 requirements from which the Department intends to exempt itself; (ii) the reason the
4 exemption is necessary to expedite delivery of facilities; (iii) the way in which the
5 Department anticipates the exemption will expedite the delivery of facilities; and (iv) a
6 brief summary of the proposed contract for the project that is to be exempted.

7 The Office of State Construction of the Department of Administration shall
8 have a verifiable ten percent (10%) goal for participation by minority- and women-
9 owned businesses. All contracts for the design, construction, or demolition of facilities
10 shall include a penalty for failure to complete the work by a specified date.

11 The Office of State Construction of the Department of Administration shall
12 involve the Department of Correction or the Department of Human Resources, as
13 applicable, in all aspects of the projects to the extent that such involvement relates to the
14 appropriate Department's program needs and to its responsibility for the care of the
15 prison or juvenile population.

16 (c) The Office of State Construction of the Department of Administration shall
17 provide quarterly reports to the Chairs of the Appropriations Committee and the Base
18 Budget Committee in the Senate, the Chairs of the Appropriations Committee in the
19 House of Representatives, the Joint Legislative Commission on Governmental
20 Operations, and the Fiscal Research Division as to any changes in projects and
21 allocations made under this act. The report shall include any changes in the projects and
22 allocations made pursuant to this act, information on which contractors have been
23 selected, what contracts have been entered into, the projected and actual occupancy
24 dates of facilities contracted for, the number of beds to be constructed on each project,
25 the location of each project, and the projected and actual cost of each project.

26 The Department of Insurance and the Department of Correction shall report
27 quarterly to the Joint Legislative Commission on Governmental Operations on their
28 involvement in the construction program.

30 **PART 15. MISCELLANEOUS PROVISIONS**

31
32 Requested by: Representatives Nesbitt and Diamont

33 **EFFECT OF HEADINGS**

34 Sec. 38. The headings to the Parts and sections of this act are a convenience
35 to the reader and are for reference only. The headings do not expand, limit, or define
36 the text of this act.

37
38 Requested by: Representatives Nesbitt and Diamont

39 **EXECUTIVE BUDGET ACT REFERENCE**

40 Sec. 39. The provisions of the Executive Budget Act, Chapter 143, Article 1
41 of the General Statutes, are reenacted and shall remain in full force and effect and are
42 incorporated in this act by reference.

43
44 Requested by: Representatives Nesbitt and Diamont

1 MOST TEXT APPLIES ONLY TO 1993-95 BIENNIUM

2 Sec. 40. Except for statutory changes or other provisions that clearly indicate
3 an intention to have effects beyond the 1993-95 biennium, the textual provisions of this
4 act shall apply only to funds appropriated for and activities occurring during the 1993-
5 95 biennium.

6
7 Requested by: Representatives Nesbitt and Diamont

8 SEVERABILITY CLAUSE

9 Sec. 41. If any section or provision of this act is declared unconstitutional or
10 invalid by the courts, it does not affect the validity of the act as a whole or any part
11 other than the part so declared to be unconstitutional or invalid.

12
13 Requested by: Representatives Nesbitt and Diamont

14 1993-94 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

15 Sec. 42. Except where expressly repealed or amended by this act, the
16 provisions of Chapters 321 and 561 of the 1993 Session Laws remain in effect. Section
17 9 of Chapter 321 of the 1993 Session Laws does not apply to this act.

18
19 Requested by: Representatives Nesbitt and Diamont

20 EFFECTIVE DATE

21 Sec. 43. Except as otherwise provided, this act is effective upon ratification.